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VOLUME I

# TRANSCRIPT OF RECORD

## Supreme Court of the United States

OCTOBER TERM, 1964

## No. 67

LOUISIANA, ET AL., APPELLANTS,

*vs.*

UNITED STATES.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

FILED MAY 5, 1964
PROBABLE JURISDICTION NOTED JUNE 22, 1964

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[fol. 1] [File endorsement omitted]

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA**

**BATON ROUGE DIVISION**

Division C 2548

---

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF LOUISIANA; JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana; and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

---

COMPLAINT—Filed December 28, 1961

The United States of America alleges that:

1. This action is instituted by the Attorney General of the United States pursuant to the provisions of 42 U.S.C. 1971, as amended, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d), 28 U.S.C. 1345 and 28 U.S.C. 2281.

[fol. 2] 3. Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

4. Hugh E. Cutrer, Jr., is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana.

5. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board is authorized to remove, at will, any registrar of voters in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of the voters of the State.

6. The right to vote is essential to a republican form of government. It is secured by Sections 2 and 4 of Article I of the Constitution of the United States and by the Fourteenth, Fifteenth, and Seventeenth Amendments thereto.

[fol. 3] 7. Under Louisiana law, registration is, and has been since at least 1898, a prerequisite to voting in any election. In 42 of the 64 parishes registration is permanent.

8. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All registrars of voters in the State of Louisiana since at least 1898 have been white citizens. Under Louisiana law registrars of voters determine whether each applicant for registration is qualified to vote.

9. Prior to the adoption of the Louisiana Constitution of 1898 approximately 44 percent of the registered voters in Louisiana were Negroes. The Constitution of 1898 established literacy and property requirements as conditions prerequisite to voting but exempted from these requirements all persons who were entitled to vote on or before January 1, 1867, and their sons and grandsons. This exemption is hereafter referred to as the "grandfather clause."

10. Under the operation of the "grandfather clause" white political supremacy became a fact in Louisiana. In 1910 only six-tenths of one percent of the registered voters in Louisiana were Negroes.

11. The Louisiana Constitution of 1921 replaced the "grandfather clause" with an interpretation test, a similar "grandfather clause" having been invalidated under the Fifteenth Amendment by the United States Supreme Court in 1915. Article VIII, Section I of the Louisiana Constitution of 1921 provided that a citizen in Louisiana, otherwise qualified, could register to vote if he were able to read any [fol. 4] clause in the Louisiana Constitution or the Constitution of the United States and give a reasonable interpretation thereof. A citizen unable to read and write could qualify if he were able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar of voters. The purpose of adopting this interpretation test was to provide a means by which the disfranchisement of Negroes could be perpetuated. This test was adopted in a state where the public educational facilities were and are racially segregated.

12. From 1921, when the interpretation test was adopted until 1944, the percentage of registered voters in Louisiana who were Negroes never exceeded one-half of one percent. In 1944 the United States Supreme Court invalidated the practice of excluding Negroes from participation in primary elections. Prior to that time, Negroes were not permitted to vote in Democratic primary elections in Louisiana.

13. During the period from 1944 until March 1956, the percentage of registered voters in Louisiana who were Negroes rose from two-tenths of one percent to approximately fifteen percent. Many registrars of voters in Louisiana did not apply the interpretation test during this period.

14. In 1954, following the decision of the Supreme Court declaring unconstitutional the maintenance by states of racially segregated public schools, the Legislature of Louisiana created a Joint Legislative Committee to study means by which white supremacy and racial segregation could be [fol. 5] preserved in Louisiana. This Committee is hereafter referred to as the Committee on Segregation.

15. The Chairman of the Committee on Segregation, William M. Rainach, was a State Senator from a District, the 27th, which has a large population of Negroes, virtually none of whom are registered to vote. While he was Chair-

man of the Committee on Segregation, William M. Rainach helped to organize the Association of Citizens Councils of Louisiana, which was incorporated in January 1956, and became the president and a member of the Board of Directors of the Association.

16. The purpose of the Association of Citizens Councils of Louisiana was to maintain white political supremacy and racial segregation in Louisiana and to organize local citizens' councils and coordinate their activities to promote these ends. Many such councils were organized in Louisiana.

17. To promote the objectives referred to in the preceding paragraph, the local all-white citizens' councils in at least eleven Louisiana parishes, purporting to act under a procedure authorized by Louisiana law, challenged the registration status and caused the removal from the voter registration rolls of thousands of Negro voters, but virtually no white voters.

18. In promoting the purging of Negro voters as described in the preceding paragraph, the Association of Citizens Councils prepared and distributed literature to local citizens' councils, registrars of voters, and other public officials in Louisiana. This literature included a pamphlet entitled "Voter Qualification Laws in Louisiana—the Key to Victory in the Segregation Struggle" urging, among [fol. 6] other things, a strict application of the interpretation test as a means of preserving white political supremacy and racial segregation in Louisiana. A copy of this pamphlet it attached hereto as Appendix A and is incorporated herein.

19. During 1958 and 1959 the Committee on Segregation and the Board of Registration held joint meetings for each of the eight congressional districts of Louisiana. These meetings were attended by public officials or their representatives, including the Committee on Segregation, the Board of Registration, the State Attorney General, registrars of voters, district attorneys, sheriffs, and police jury presidents, as well as by officers and members of the citizens councils, all of whom were white citizens. The purpose of these meetings was to formulate a program for maintaining white political supremacy and racial segregation in Loui-

siana. The position taken by these state agencies was that the strict application of the interpretation test was the key to maintaining white political supremacy and racial segregation. The counsel for the Committee on Segregation told those in attendance that the interpretation test is a test of native intelligence, not "book learning", and that, "experience teaches—that most of our white people have this native intelligence, while most Negroes do not." These state agencies distributed to the persons in attendance at these meetings, including the registrars of voters, the pamphlet described in the preceding paragraph, and sets of 24 cards containing constitutional provisions to be used in administering the interpretation test. A copy of a set of [fol. 7] these test cards is attached as Appendix B and is incorporated herein.

20. The Committee on Segregation also sent letters and other materials to the registrars of voters throughout Louisiana urging the registrars to enforce strictly the interpretation test in order to maintain segregation of the races, stressing that the registrars of voters are on the very front line of the battle to maintain segregation. A copy of one such letter from this Committee to a registrar of voters is attached as Appendix C and is incorporated herein.

21. In certain Louisiana parishes, particularly those in which most of the Negro voters were purged from the registration rolls, the registrars of voters began to require applicants for registration and reregistration to pass the interpretation test. In these parishes, white voters who, with almost no exceptions, had not been purged, were not subjected to the interpretation test. In the eleven parishes referred to in paragraph 17, the total number of white voters increased by 1033, while the total number of Negro voters decreased by 8158 between March and October 1956. From October 1956 until December 1960, the number of white voters in these parishes increased by 3264, while the number of Negro voters decreased by 2205.

22. In some of the parishes of Louisiana, including the four largest, the interpretation test has not been applied as a qualification for voter registration. The interpretation test has been applied in at least twelve parishes. In these twelve parishes less than 5 percent of the Negroes of voting

age were registered to vote as of December 31, 1960. Throughout the rest of the state, over 35 percent of the Negroes of voting age were registered to vote as of that date.

[fol. 8] 23. In November 1960, the voters of Louisiana approved an amendment to Article VIII of the Louisiana Constitution which, among other things, changed the interpretation test to require as a qualification for voting that an applicant for registration be able to *understand* and give a reasonable interpretation of any section of either Constitution. The amendment also requires applicants to read and to write from dictation any portion of the preamble to the Constitution of the United States. The amendment was proposed by the Louisiana Legislature as one of several measures to preserve racial segregation in Louisiana.

24. In October 1961, the Board of Registration, in cooperation with the Committee on Segregation and the State Sovereignty Commission, adopted a resolution requiring all registrars of voters in the State of Louisiana to enforce strictly the interpretation test.

25. The Constitution and laws of Louisiana providing for the interpretation test vest discretion in the registrars of voters to determine the qualifications of applicants for registration. These constitutional and statutory provisions impose no definite and objective standards upon registrars of voters for the administration of the interpretation test. No requirement exists that answers given to the interpretation test be in writing or that they be reduced to writing. These provisions enable and require the registrars of voters in Louisiana to determine subjectively:

(a) The manner in which the interpretation test is to be administered;

[fol. 9]

(b) The length and complexity of the sections of the Constitution to be understood and interpreted by applicants;

(c) What constitutes a reasonable interpretation of any section of the Constitution;

(d) Whether the applicant's understanding and interpretation are satisfactory.

26. The effect of vesting this discretion in Louisiana registrars of voters, as described in the preceding paragraph, has been and is to permit them to deprive otherwise qualified Negro citizens of their right to register and vote without distinction of race or color.

27. The history of the interpretation test, the setting of white political supremacy and racial segregation in which this test was adopted and is enforced, and the discretion which is vested in the registrars of voters in the administration of this test render the interpretation test invalid on its face under 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

28. The Louisiana Constitution is in excess of 300 printed pages. Its provisions vary widely in subject matter and complexity to include such matters as the requirement that the English language be used in public schools (Art. XII, Sec. 12) and the application of certain debt taxes and water and sewer taxes to the liquidation of certain bonded debt obligations incurred by the City of New Orleans for public improvements (Art. XIV, Sec. 24). Interpretations of certain provisions of the Louisiana Constitution and the Con- [fol. 10] stitution of the United States have differed widely even among those learned in the law.

29. There is no rational or reasonable basis for requiring, as a prerequisite to voting, that a prospective elector otherwise qualified be able to interpret certain sections of the Louisiana Constitution.

30. The defendants, unless restrained by order of this Court, will continue to require and permit registrars of voters to use the interpretation test as a qualification for registration for voting.

Wherefore, plaintiff prays that, pursuant to the provisions of 28 U.S.C. 2281, a District Court of three judges be convened in accordance with the procedures set forth in 28 U.S.C. 2284, and that said Court:

1. Adjudge, declare and decree that the provisions of Article VIII, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States;

2. Issue a preliminary and permanent injunction enjoining the defendants, their agents, employees, and successors, and all persons in active concert and participation with them having actual notice of the Court's decree, from:

(a) Enforcing and giving any further effect to the requirements of Article VIII, Section 1 of the Louisiana [fol. 11] Constitution, and of the statutes implementing Article VIII, Section 1, insofar as they pertain to the interpretation test as a prerequisite to voting.

(b) Engaging in any act which would deprive any citizen in the State of Louisiana of the right to register and the right to vote without distinction of race or color.

(c) Engaging in any acts which would delay, prevent, hinder, or discourage Negro citizens, on account of their race or color from applying for registration and becoming registered voters in the State of Louisiana.

3. Issue all such additional orders which will insure the fair, equal, and non-discriminatory administration of registration procedures in the State of Louisiana.

4. Grant such additional relief as justice may require, together with the costs and disbursements of this action.

Robert F. Kennedy, Attorney General of the United States; Burke Marshall, Assistant Attorney General; M. Hepburn Many, United States Attorney; John Doar, Attorney, Department of Justice.

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[fol. 12] CLERK'S NOTE: Appendix "A" to Complaint, pamphlet entitled, "Voter Qualification Laws In Louisiana—The Key To Victory In The Segregation Struggle" is omitted from the record here. It appears as Plaintiff's Exhibit No. 10 on page 195.

Form No. 1

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government. (U. S. Const. Art. IV Sec. 4)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 2

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

[fol. 13]

government, (U. S. Const. Art. IV Sec. 4)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____ _____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 2

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 3

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward ____ Precinct ____ Address _____

(Over)

Form No. 4

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

[fol. 13a]

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 4

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13a]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 5

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

'The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.'

_____

Applicant for Registration

Ward ____ Precinct _____ Address _____

(Over)

Form No. 6

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

'The above qualification test and a registration application form provided for by Section 1 (c), Article

[fol. 13b]

(Art. 7 Sec. 45 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

"The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register."

_____
Applicant for Registration

Ward____ Precinct_____ Address_____

(Over)

Form No. 6

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13b]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

"The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register."

_____
Applicant for Registration

Ward_____ Precinct_____ Address_____

(Over)

Form No. 7

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward_____ Precinct_____ Address _____

(Over)

Form No. 8

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

[fol. 13c]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward_____ Precinct ____ Address _____

(Over)

Form No. 8

## CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press. (Art. 1 No. 3 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward_____ Precinct _____ Address_____

(Over)

[fol. 13c]

Form No. 9

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 10

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13d]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Reg-

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 10

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13d]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward Precinct_____ Address_____

(Over)

Form No. 11

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

_____ _____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 12

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13e]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1, U. S. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

... judicial. (Art. 7 Sec. 5 La. Const.)

The Legislature shall provide for the registration of voters throughout the State (Art. 8 Sec. 17 La. Const.)

The exercise of the police power of the State shall never be abridged (Art. 19 Sec. 18 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____ _____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 12

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13e]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Prescription shall not run against the State in any civil matter (Art. 19 Sec. 16 La. Const.)

No power of suspending laws of this State shall be exercised unless by the Legislature, or by its authority (Art. 19 Sec. 5 La. Const.)

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1, U. S. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

14

_____ _____
Applicant for Registration

Ward Precinct ____ Address _____

(Over)

Form No. 13

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward_____ Precinct_____ Address_____

(Over)

Form No. 14

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

[fol. 13f]

in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward_____ Precinct_____ Address _____

(Over)

Form No. 14

## CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13f]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case, (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward_____ Precinct_____ Address_____

(Over)

Form No. 15

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

All legislative powers herein granted shall be vested in a Congress of the United States. (U. S. Const. Art. 1 No. 1)

The judicial power of the United Stataes, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time to time ordain and establish

(U. S. Const. Art. III Sec. 1)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____

Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

Form No. 16

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec 1. U. S. Const.)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. (U. S. Const. Art. IV Sec. 2)

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Reg-

[fol. 135]

States, (U. S. Const. Art. I No. 1)

The judicial power of the United Stataes, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time to time ordain and establish

(U. S. Const. Art. III Sec. 1)
The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

Form No. 16

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. (Art. IV Sec. 1, U. S. Const.)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. (U. S. Const. Art. IV Sec. 2)

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

[fol. 13g]

16

Form No. 17

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

Every person has the natural right to worship God according to the dictates of his own conscience (Art. 1 No. 4 La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

[fol. 13h]

Form No. 18

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1) were received by me from the _____ Parish Reg-

own conscience (Art. 1 No. 4 La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision thereof (Art. 13 Sec. 7 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____ _____
Applicant for Registration

Ward Precinct Address _____

(Over)

[fol. 13h]

Form No. 18

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct_____ Address_____

(Over)

Form No. 19

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 20

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

[fol. 131]

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1. U. S. Const.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searchers and seizures, shall not be violated (U. S. Const. 4th Amendment)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____Parish Reg-

(U. S. Const. 2nd Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 3 La. Const.)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 20

## CONSTITUTIONAL TEST FOR REGISTRATION

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

[fol. 13i]

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, (Art. IV Sec. 1. U. S. Const.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searchers and seizures, shall not be violated (U. S. Const. 4th Amendment)

The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward Precinct Address _____

(Over)

Form No. 21

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)

The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward_____ Precinct _____ Address _____

(Over)

Form No. 22

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

[fol. 13j]

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time ordain and establish (U. S. Const. Art. III Sec. 1)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

**The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states, (U. S. Const. Art. IV Sec. 2)**

**The right of the people to keep and bear arms, shall not be infringed (U. S. Const. 2nd. Amendment)**

**(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)**

_____

**Applicant for Registration**

**Ward____ Precinct____ Address_____**

**(Over)**

Form No. 22

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

[fol. 13]

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time ordain and establish (U. S. Const. Art. III Sec. 1)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

**(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the_____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)**

_____

**Applicant for Registration**

**Ward____ Precinct____ Address_____**

**(Over)**

19

Form No. 23

**CONSTITUTIONAL TEST FOR REGISTRATION**

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases. (Art. 7 Sec. 45 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward ___ Precinct ___ Address _____

(Over)

Form No. 24

**CONSTITUTIONAL TEST FOR REGISTRATION**

[fol. 13k]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searchers and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case. (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

No ex-post facto law, nor any law impairing the obligation of contracts, shall be passed; (Art. 4 Sec. 15 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

_____
Applicant for Registration

Ward ___ ___ Precinct ___ ___ Address _____

(Over)

Form No. 24

## CONSTITUTIONAL TEST FOR REGISTRATION

[fol. 13k]

Applicant shall read to the Registrar of Voters and give a reasonable interpretation of the following clauses of the Constitution:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searchers and seizures, shall not be violated (Art. 1 Sec. 7 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case. (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Section 1 (c), Article VIII of the Louisiana Constitution, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

20

_____
Applicant for Registration

Ward ___ ___ Precinct ___ ___ Address _____

(Over)

[fol. 14] CLERK'S NOTE: Appendix "C" to Complaint, Letter from State of Louisiana, Joint Legislative Committee to Mrs. Myrtle C. Beard, Lake Providence, Louisiana (Registrar of Voters of East Carroll Parish), dated May 26, 1958 is omitted from the record here. It appears as Plaintiff's Exhibit No. 13 on page 201.

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[fol. 15] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

Division "C"

[Title omitted]

MOTION TO DISMISS—Filed February 27, 1962

On Motion of State of Louisiana; Jimmie H. Davis, C. C. Aycock, J. Thomas Jewell, as members of the Board of Registration of the State of Louisiana; and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, sought to be made defendants in the above entitled and numbered cause, through their undersigned counsel, and in no way acceding to the jurisdiction of this Honorable Court, but on the contrary denying the same, moves as follows, to-wit:

1.

To dismiss the action herein because the complaint fails to state a claim against defendants, upon which relief can be granted in that

[fol. 16]

(a) There is no justiciable controversy alleged in the pleadings of the plaintiff; and

(b) There is a lack of indispensable parties under the allegations of the complaint; and

(c) That this action has been brought in a court of improper venue.

Jack P. F. Gremillion, Attorney General, State of Louisiana; M. E. Culligan, Assistant Attorney General; John E. Jackson, Assistant Attorney General; Dorothy Wolbrette, Assistant Attorney General; Weldon A. Cousins, Assistant Attorney General; William P. Schuler, Assistant Attorney General; Henry J. Roberts, Jr., Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General.

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[fol. 17] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

AMENDED COMPLAINT—Filed March 15, 1962

The United States of America alleges that:

1. This action is instituted by the Attorney General of the United States pursuant to the provisions of 42 U.S.C. 1971, as amended, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d), 28 U.S.C. 1345 and 28 U.S.C. 2281.

[fol. 18] 3. Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

4. Hugh E. Cutrer, Jr., is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana.

5. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board is authorized to remove, at will, any registrar of voters in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of the voters of the State.

6. The right to vote is essential to a republican form of government. It is secured by Sections 2 and 4 of Article I of the Constitution of the United States and by the Fourteenth, Fifteenth, and Seventeenth Amendments thereto.

[fol. 19] 7. Under Louisiana law, registration is, and has been since at least 1898, a prerequisite to voting in any election. In 42 of the 64 parishes registration is permanent.

8. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All registrars of voters in the State of Louisiana since at least 1898 have been white citizens. Under Louisiana law registrars of voters determine whether each applicant for registration is qualified to vote.

9. Prior to the adoption of the Louisiana Constitution of 1898 approximately 44 percent of the registered voters in Louisiana were Negroes. The Constitution of 1898 established literacy and property requirements as conditions prerequisite to voting but exempted from these requirements all persons who were entitled to vote on or before January 1, 1867, and their sons and grandsons. This

exemption is hereafter referred to as the "grandfather clause."

10. Under the operation of the "grandfather clause" white political supremacy became a fact in Louisiana. In 1910 only six-tenths of one percent of the registered voters in Louisiana were Negroes.

11. The Louisiana Constitution of 1921 replaced the "grandfather clause" with an interpretation test, a similar "grandfather clause" having been invalidated under the Fifteenth Amendment by the United States Supreme Court in 1915. Article VIII, Section I of the Louisiana Constitution of 1921 provided that a citizen in Louisiana, other- [fol. 20] wise qualified, could register to vote if he were able to read any clause in the Louisiana Constitution or the Constitution of the United States and give a reasonable interpretation thereof. A citizen unable to read and write could qualify if he were able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar of voters. The purpose of adopting this interpretation test was to provide a means by which the disfranchisement of Negroes could be perpetuated. This test was adopted in a state where the public educational facilities were and are racially segregated.

12. From 1921, when the interpretation test was adopted until 1944, the percentage of registered voters in Louisiana who were Negroes never exceeded one-half of one percent. In 1944 the United States Supreme Court invalidated the practice of excluding Negroes from participation in primary elections. Prior to that time, Negroes were not permitted to vote in Democratic primary elections in Louisiana.

13. During the period from 1944 until March 1956, the percentage of registered voters in Louisiana who were Negroes rose from two-tenths of one percent to approximately fifteen percent. Many registrars of voters in Louisiana did not apply the interpretation test during this period.

14. In 1954, following the decision of the Supreme Court declaring unconstitutional the maintenance by states of

racially segregated public schools, the Legislature of Louisiana created a Joint Legislative Committee to study means by which white supremacy and racial segregation [fol. 21] could be preserved in Louisiana. This Committee is hereafter referred to as the Committee on Segregation.

15. The Chairman of the Committee on Segregation, William M. Rainach, was a State Senator from a District, the 27th, which has a large population of Negroes, virtually none of whom are registered to vote. While he was Chairman of the Committee on Segregation, William M. Rainach helped to organize the Association of Citizens Councils of Louisiana, which was incorporated in January 1956, and became president and a member of the Board of Directors of the Association.

16. The purpose of the Association of Citizens Councils of Louisiana was to maintain white political supremacy and racial segregation in Louisiana and to organize local citizens' councils and coordinate their activities to promote these ends. Many such councils were organized in Louisiana.

17. To promote the objectives referred to in the preceding paragraph, the local all-white citizens' councils in at least eleven Louisiana parishes, purporting to act under a procedure authorized by Louisiana law, challenged the registration status and caused the removal from the voter registration rolls of thousands of Negro voters, but virtually no white voters. In these eleven parishes, the total number of white voters increased by 1033, while the total number of Negro voters decreased by 8,158 between March and October 1956.

18. In promoting the purging of Negro voters as described in the preceding paragraph, the Association of Citizens Councils prepared and distributed literature to local citizens' councils, registrars of voters and other public [fol. 22] officials in Louisiana. This literature included a pamphlet entitled "Voter Qualification Laws in Louisiana —the Key to Victory in the Segregation Struggle" urging, among other things, a strict application of the interpretation test as a means of preserving white political supremacy

and racial segregation in Louisiana. A copy of this pamphlet is attached hereto as Appendix A and is incorporated herein.

19. During 1958 and 1959 the Committee on Segregation and the Board of Registration held joint meetings for each of the eight congressional districts of Louisiana. These meetings were attended by public officials or their representatives, including the Committee on Segregation, the Board of Registration, the State Attorney General, registrars of voters, district attorneys, sheriffs, and police jury presidents, as well as by officers and members of the citizens' councils, all of whom were white citizens. The purpose of these meetings was to formulate a program for maintaining white political supremacy and racial segregation in Louisiana. The position taken by these state agencies was that the strict application of the interpretation test was the key to maintaining white political supremacy and racial segregation. The counsel for the Committee on Segregation told those in attendance that the interpretation test is a test of native intelligence, not "book learning", and that, "experience teaches—that most of our white people have this native intelligence, while most Negroes do not." These state agencies distributed to the persons in attendance at these meetings, including the registrars of [fol. 23] voters, the pamphlet described in the preceding paragraph, and sets of 24 cards containing constitutional provisions to be used in administering the interpretation test. A copy of a set of these test cards is attached as Appendix B and is incorporated herein.

20. The Committee on Segregation also sent letters and other materials to the registrars of voters throughout Louisiana urging the registrars to enforce strictly the interpretation test in order to maintain segregation of the races, stressing that the registrars of voters are on the very front line of the battle to maintain segregation. A copy of one such letter from this Committee to a registrar of voters is attached as Appendix C and is incorporated herein.

21. In late 1956 in certain Louisiana parishes, particularly those in which most of the Negro voters were purged

from the registration rolls, the registrars of voters began to require applicants for registration and re-registration to pass the interpretation test. In these parishes, white voters who, with almost no exceptions, had not been purged, were not subjected to the interpretation test. In the eleven parishes referred to in paragraph 17, from October 1956 until December 1960, the number of white voters in these parishes increased by 3264, while the number of Negro voters decreased by 2205.

22. In some of the parishes of Louisiana, including the four largest, the interpretation test has not been applied as a qualification for voter registration. The interpretation test has been applied in at least twelve parishes. Negro citizens in these parishes have been denied registration to vote on the ground that they did not interpret constitu- [fol. 24] tional sections to the satisfaction of the registrars. In these twelve parishes less than five per cent of the Negroes of voting age were registered to vote as of December 31, 1960. Throughout the rest of the State, over 35 per cent of the Negroes of voting age were registered to vote as of that date.

23. In November, 1960, the voters of Louisiana approved an amendment to Article VIII of the Louisiana Constitution which, among other things, changed the interpretation test to require as a qualification for voting that an applicant for registration be able to *understand* and give a reasonable interpretation of any section of either Constitution. The amendment also requires applicants to read and to write from dictation any portion of the preamble to the Constitution of the United States. The amendment was proposed by the Louisiana Legislature as one of several measures to preserve racial segregation in Louisiana.

24. Pursuant to its authority to prescribe rules and regulations governing the method of administration of the voter registration laws and procedures and to supervise parish registrars of voters, the Board of Registration, in October 1961, in cooperation with the Committee on Segregation and the State Sovereignty Commission, promulgated a resolution requiring all registrars of voters in the State of Louisiana to enforce strictly the interpretation test.

25. The Constitution and laws of Louisiana providing for the interpretation test vest discretion in the registrars of voters to determine the qualifications of applicants for registration. These constitutional and statutory provisions impose no definite and objective standards upon registrars [fol. 25] of voters for the administration of the interpretation test. No requirement exists that answers given to the interpretation test be in writing or that they be reduced to writing. These provisions enable and require the registrars of voters in Louisiana to determine subjectively:

(a) The manner in which the interpretation test is to be administered;

(b) The length and complexity of the sections of the Constitution to be understood and interpreted by applicants;

(c) What constitutes a reasonable interpretation of any section of the Constitution;

(d) Whether the applicant's understanding and interpretation are satisfactory.

26. Louisiana registrars of voters, vested with the discretion described in the preceding paragraph, have used, are using, and will continue to use the interpretation test to deprive otherwise qualified Negro citizens of the right to register to vote without distinction of race or color. The existence of the interpretation test as a voter qualification in Louisiana, the threats of its enforcement and its enforcement have deterred, are deterring and will continue to deter otherwise qualified Negroes in Louisiana from applying for registration to vote.

27. The history of the interpretation test, the setting of white political supremacy and racial segregation in which this test was adopted and is enforced, and the discretion which is vested in the registrars of voters in the administration of this test render the interpretation test invalid on its face under 42 U.S.C. 1971(a) and the Fourteenth [fol. 26] and Fifteenth Amendments to the Constitution of the United States.

28. The Louisiana Constitution is in excess of 500 printed pages. Its provisions vary widely in subject matter and complexity to include such matters as the requirement that the English language be used in public schools (Art. XII, Sec. 12) and the application of certain debt taxes and water and sewer taxes to the liquidation of certain bonded debt obligations incurred by the City of New Orleans for public improvements (Art. XIV, Sec. 24). Interpretations of certain provisions of the Louisiana Constitution and the Constitution of the United States have differed widely even among those learned in the law.

29. There is no rational or reasonable basis for requiring, as a prerequisite to voting, that a prospective elector otherwise qualified be able to interpret certain sections of the Louisiana Constitution.

30. The defendants, unless restrained by order of this Court, will continue to require and permit registrars of voters to use the interpretation test as a qualification for registration for voting.

Wherefore, plaintiff prays that, pursuant to the provisions of 28 U.S.C. 2281, a District Court of three judges be convened in accordance with the procedures set forth in 28 U.S.C. 2284, and that said Court:

1. Adjudge, declare and decree that the provisions of Article VIII, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States;

2. Issue a preliminary and permanent injunction enjoining the defendants, their agents, employees, and successors, [fol. 27] and all persons in active concert and participation with them having actual notice of the Court's decree, from:

(a) Enforcing and giving any further effect to the requirements of Article VIII, Section 1 of the Louisiana Constitution, and of the statutes implementing Article VIII, Section 1, insofar as they pertain to the interpretation test as a prerequisite to voting.

(b) Engaging in any act which would deprive any citizen in the State of Louisiana of the right to register and the right to vote without distinction of race or color.

(c) Engaging in any acts which would delay, prevent, hinder, or discourage Negro citizens, on account of their race or color from applying for registration and becoming registered voters in the State of Louisiana.

3. Order the defendants to direct the Registrars of Voters in Louisiana to cease using the interpretation tests as a voter qualification.

4. Issue all such additional orders which will insure the fair, equal, and non-discriminatory administration of regis-
[fol. 28] tration procedures in the State of Louisiana.

5. Grant such additional relief as justice may require, together with the costs and disbursements of this action.

Burke Marshall, Assistant Attorney General; Kathleen Ruddell, United States Attorney; John Doar, Attorney, Department of Justice.

[fol. 29] Certificate of service (omitted in printing).

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[fol. 30] CLERK'S NOTE: Appendix "A" to Amended Complaint, pamphlet entitled, "Voter Qualification Laws in Louisiana—The Key To Victory In The Segregation Struggle" is omitted from the record here. It appears as Plaintiff's Exhibit No. 10 on page 195.

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[fol. 31] CLERK'S NOTE: Appendix "B" to Amended Complaint, Set of 24 Forms entitled, "Constitutional Test for Registration" is omitted from the record here. It appears on page 9 supra.

[fol. 32] CLERK'S NOTE: Appendix "C" to Amended Complaint, Letter from State of Louisiana, Joint Legislative Committee to Mrs. Myrtle C. Beard, Lake Providence, Louisiana (Registrar of Voters of East Carroll Parish), dated May 26, 1958 is omitted from the record here. It appears as Plaintiff's Exhibit No. 13 on page 201.

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[fol. 33]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

John Minor Wisdom, Judge; Herbert W. Christenberry, Judge; E. Gordon West, Judge.

[Title omitted]

MINUTE ENTRY OF ORDER DENYING DEFENDANTS' MOTION TO DISMISS—June 7, 1962

This matter came on for hearing on a former day on the motion of defendants to dismiss. Due consideration having been given to the pleadings, the oral argument of counsel, and the briefs filed by counsel for respective parties herein:

It It Ordered that the defendants' motion to dismiss be, and the same is hereby Denied.

[fol. 34] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed October 22, 1962

It is hereby agreed and stipulated between the parties to this action that U. Charles Mitchell is the Registrar of Voters of Caddo Parish; that he has served in that capacity since July 21, 1958; and that he has never required any applicant for registration for voting to read, explain or interpret a section or any part, of the state or federal constitutions.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

Frank M. Dunbaugh, Attorney, Department of Justice, Attorney for Plaintiff.

Dated October 12, 1962

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[fol. 35] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed March 1, 1963

The parties to this action hereby stipulate through their counsel to the authenticity of and to the introduction into evidence at the trial of this cause of the attached microfilm copies of the voter registration records for the following

parishes as set out in the following schedule. The reels of microfilm are designated by abbreviations under each particular parish, for example:

EC-1 means reel 1 of the East Carroll Parish voter registration records and will be introduced into evidence at the trial as plaintiff's exhibit EC-1.

East Carroll Parish

EC-1—Voter registration records of East Carroll Parish, including all applications for registration forms LR-1 for the period January 1, 1957 to December 12, 1960.

EC-2—Voter registration records of East Carroll Parish, including all applications for registration and all constitutional test cards for the period January 1, 1961 to September 22, 1961.

EC-3 and 4—Voter registration records of East Carroll Parish, including all applications for registration and constitutional test cards for the period September 22, 1961 to August 22, 1962.

Claiborne Parish

CL-1 through CL-4—Voter registration records of Claiborne Parish, including all applications for registration for the period January 1, 1953 to April 24, 1961.

Red River Parish

RR-1 through RR-3—Voter registration records of Red River Parish, including all applications for registration, constitutional test cards, and affidavits of challenge for the period January 1, 1953 through December 31, 1956 and all applications for registration and constitutional test cards for the period January 1, 1957 to July 21, 1961.

[fol. 36]

Webster Parish

WR-1 through WR-7—Voter registration records of Webster Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and for the period January 1, 1961 to August 8, 1962.

De Soto Parish

DS-1 through DS-5—Voter registration records of De Soto Parish, including all applications for registration and affidavits of challenge for the period January 1, 1953 to August 7, 1962.

Richland Parish

RL-1 through RL-9—Voter registration records of Richland Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and the period January 1, 1961 to November 14, 1962.

West Carroll Parish

WC-1 through WC-4—Voter registration records of West Carroll Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and the period January 1, 1961 to November 16, 1962.

Union Parish

UN-1 through UN-6—Voter registration records of Union Parish, including all applications for registration for the period January 1, 1953 through December 31, 1956 and all applications for registration for the period January 1, 1957 to November 12, 1962.

Ouachita Parish

OU-1 through OU-13—Voter registration records of Ouachita Parish, including all applications for registration for the period January 1, 1953 to December 13, 1960 except those of persons removed from the registration rolls after January 1, 1957, and including all affidavits of challenge for the period January 1, 1953 to December 13, 1960.

Morehouse Parish

MH-1 through MH-7—Voter registration records of Morehouse Parish, including all applications for registration for the period January 1, 1961 to May 24, 1962.

[fol. 37]

Franklin Parish

FR-1 through FR-8—Voter registration records of Franklin Parish, including all applications for registration and constitutional test cards for the period January 1, 1961 to May 22, 1962.

Jackson Parish

JX-1 through JX-6—Voter registration records of Jackson Parish, including all applications for registration and affidavits of challenge for the period January 1, 1953 to April 25, 1961.

East Feliciana Parish

EF-1 through EF-7—Voter registration records of East Feliciana Parish, including all applications for registration of negroes registered to vote as of August 8, 1960, and applications for registration of 50% of the white persons (every other one) registered to vote as of August 8, 1960, and all the rejected applications of white and negro persons for the period January 1, 1953 to August 8, 1960.

EF-9 through EF-12—Voter registration records of East Feliciana Parish, including all affidavits of challenge and including all precinct registers which contain a precinct register page for each registered voter in each precinct in East Feliciana Parish as of March 27, 1961.

Plaquemines Parish

PL-1 through PL-5—Voter registration records of Plaquemines Parish, including all applications for registration and all constitutional test cards for the period January 1, 1953 to March 31, 1962.

St. Helena Parish

SH-1 through SH-4—Voter registration records of St. Helena Parish, including all applications for registration for the period January 1, 1957 through December 31, 1960 and for the period January 1, 1961 to July 22, 1961, and all oath cards for the period January 1, 1961 to July 22, 1961.

Bienville Parish

BV-1 through BV-4—Voter registration records of Bienville Parish, including all applications for registra-
[fol. 38] tion and affidavits of challenge for the period January 1, 1953 to November 19, 1960.

John Doar, Department of Justice, Attorney for Plaintiff.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

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[fol. 39] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed March 1, 1963

The parties to this action through their counsel hereby stipulate to the introduction into evidence at trial of the following transcripts of trial, certified by the clerk of the district in which the action was tried or by the official reporter of the trial, to include the testimony or stipulated testimony of the witnesses named below in lieu of the examination of these witnesses by deposition or at the trial of this action:

A. *United States* v. *Association of Citizens Councils, et al.* (Bienville Parish, Louisiana) Civil Action No. 7881, Western District of Louisiana:

Pauline Culpepper
Marie Kilgore
Moses Smith
Waive Crawford

[fol. 40]

J. N. Blankenship
O. W. Gray
Artis Melton
Silver Parker
Otis Green
Thelma Tobin
Earl E. Smith
Gloria Pyle
Ruby Branch
James L. Deweese, Jr.
T. J. Lafield
Leroy O. Baxley
Owen Black
S. A. Bruce
Arthur L. Salter

B. Transcript of trial, *United States* v. *Wilder, et al.* (Jackson Parish, Louisiana) Civil Action No. 8695, Western District of Louisiana:

Estelle Wilder
Daisy Knox
Bernice Grant
Joan Dunn
Erven Bryan
Mary K. Bryan
Willie K. Stringer
Elle Corene Scott
Aszerlean Raybon
Darlean McCarter
Flynn Melton

[fol. 41] C. Transcript of trial, *United States* v. *Fox, et al.* (Plaquemines Parish, Louisiana) Civil Action No. 11625, Eastern District of Louisiana, to include the testimony of all witnesses who testified at the trial of this action and the testimony of witnesses whose depositions were taken on the following dates:

February 22, 1962
February 26, 1962

February 27, 1962
February 28, 1962
March 1, 1962
March 2, 1962
April 2, 1962

The parties further stipulate that the witnesses named in subparagraphs A and B above are all the witnesses who testified with respect to the interpretation test as administered in Bienville and Jackson Parishes. Subparagraph C includes all the testimony admitted into evidence at the trial of the Plaquemines Parish case.

January 21, 1963

Frank M. Dunbaugh, Attorney, Department of Justice, Attorney for Plaintiff.

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana, Attorney for Defendants.

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[fol. 42] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STIPULATION—Filed March 1, 1963

The parties to this action through their counsel hereby stipulate that Special Agents for the Federal Bureau of Investigation, if called as witnesses at the trial of this action, will testify to statements given them by various Registrars of Voters in Louisiana, which statements are contained in attachments to this stipulation labeled Ex. 301 through Ex. 311. The purpose of this stipulation is to avoid the calling of these agents to appear as witnesses in this action, and in no way forecloses either party from as-

[fol. 43] serting the legal admissibility or inadmissibility of the testimony contained in the attachments.

The following is a schedule of the attachments to this stipulation, labeled to conform to plaintiff's overall method of labeling exhibits submitted as evidence in this action:

| Exhibit | Name of FBI Agent | Name of Registrar who gave statement | Date statement was given |
|---|---|---|---|
| 301 | Regis L. Kennedy | John S. Allen (La Salle Parish) | Aug. 13, 1956 & Aug. 15, 1956 |
| 302 | Vernon G. Smith | Cleighton Bushnell (Rapides Parish) | Oct. 10, 1956 & Nov. 15, 1956 |
| 303 | Thurman P. Kelley | Winnice P. Clement (Webster Parish) | Dec. 19, 1957 & March 6, 1958 |
| 304 | Earl Cox | Woodrow W. Farrar (Union Parish) | Dec. 20, 1956 |
| 305 | Earl Cox | Mrs. John Earl Jones (Lincoln Parish) | Nov. 19, 1956 |
| 306 | Regis Kennedy | Mae Lucky (Ouachita Parish) | June 4, 1956 |
| 307 | Earl Cox | Mae Lucky (Ouachita Parish) | Aug. 13, 1956 & Aug. 17, 1956 |
| 308 | Regis Kennedy | Mae Morin (Deputy, Ouachita Parish) | June 5, 1956 & June 8, 1956 |
| 309 | Earl Cox | Mae Morin (Deputy, Ouachita Parish) | Aug. 13, 1956 & Aug. 17, 1956 |
| [fol. 44] | | | |
| 310 | Regis L. Kennedy | Joseph A. Slawson (De Soto Parish) | Nov. 26, 1956 |
| 311 | Earl Cox | Estelle Wilder (Jackson Parish) | Nov. 8, 1956 |

Harry J. Kron, Jr., Assistant Attorney General, State of Louisiana.

David L. Norman, Attorney, Department of Justice.

[fol. 45]

PLAINTIFF'S EXHIBIT No. 301

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On August 13, 1956, JOHN S. ALLEN, Registrar of Voters, La Salle Parish, Jena, Louisiana, was interviewed at which time ALLEN advised him that he had been the Registrar of Voters for 22 months.

ALLEN advised that WILLIAM SID MOSELEY and JAMES A. HODGES had filed challenges with his office, challenging the rights of 345 voters registered in Precinct 7, Ward 4, of La Salle Parish. He stated that all of the individuals registered in this precinct are Negroes. He advised that there were approximately 355 registered voters in this precinct prior to the challenges. He advised that the number 355 might be subject to an adjustment due to a death or some other reason about this time.

At the completion of the challenges, there were ten registered voters left in this precinct.

ALLEN advised that one challenged voter had been returned to the rolls by affidavits of three white persons.

ALLEN further advised that two individuals have reregistered since they were challenged. These individuals are MYRA J. FLETCHER and JOE L. HART. He advised that of the 345 challenged letters which were mailed, 31 were returned with postmarks reflecting un-

[fol. 46] known, and three were returned postmarked "Address changed—no forwarding address."

JOHN S. ALLEN advised that he reviewed the law as reflected in the Revised Statutes of the State of Louisiana, 1954, a copy of which he has available in his office, and decided that WILLIAM SID MOSELEY and JAMES A. HODGES were within their rights to challenge the voters of Precinct 7, Ward 4. He advised that HODGES and MOSELEY both reviewed the records of this precinct and found errors on the registration cards. These errors fell generally into the following classifications:

Failure to fill out the card by the registrant;
Incompletely filling out the card;
Errors in answering the questions on the card;
Failure to sign the card;
Failure of the Registrar to execute an affidavit for illiterates or persons physically handicapped;
Failure to use the proper registration card—for example, registering persons who are unable to read or write for reasons of physical disability on the wrong form.

ALLEN advised that he himself had registered a number of illiterates and had failed to obtain this affidavit because he was not familiar with the requirement. He stated that he had to learn his job as he went along and he made mistakes by which the registrant should be challenged.

[fol. 47] On August 15, 1956, JOHN S. ALLEN was reinterviewed regarding the procedure used for re-registration. He advised that two Negroes who applied were required to produce two witnesses who were registered in Ward 4, Precinct 7, to identify them. They were required to fill out their own registration card correctly. He further advised that he asked them to give a reasonable interpretation of the Constitution of the State of Louisiana and required them to provide a written answer to him of their interpretation. He advised that the decision to do this was his own and in accordance with his understanding of the laws of the State of Louisiana and that he had no legal opinion from any other officer of the State of Louisiana.

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[fol. 48]

PLAINTIFF'S EXHIBIT No. 302

Special Agent Vernon G. Smith of the Federal Bureau of Investigation will testify that:

On October 10, 1956, CLEIGHTON BUSHNELL, Registrar of Voters, Rapides Parish, Alexandria, Louisiana, was interviewed at which time BUSHNELL advised him that on September 6, 1956, a group of citizens came to

his office as a body and that OTIS EDGERTON, JR., acted as spokesman for the group.

BUSHNELL stated that according to a statement by EDGERTON the group was acting in the capacity of private citizens and did not represent the Citizens' Council. BUSHNELL recalled that, in addition to EDGERTON, the group was composed of the following persons:

LEWIS J. SEALE
DON. W. MOOREHEAD
A. B. ANDREWS
CECIL R. BLAIR
L. B. DUKE
W. E. KEES, JR.
T. M. ESKEW
JOHN MCCONNELL
JEAN PHAIRS
T. W. HOLLOMAN.

BUSHNELL stated all persons of this group signed challenges of Negro voters' registration except HOLLOMAN and PHARIS.

BUSHNELL stated the group proceeded to go through the registration cards and underline with a red pencil any part of Negro registrants' cards which they felt constituted improper or illegal registration by Negro registrants.

[fol. 49] BUSHNELL related that various reasons were used for claiming the Negroes were illegally registered. He said in some instances Negroes were challenged for abbreviating that part of the application which states "Give Color" for inserting a "C" instead of using the word "Colored" or "Negro." He stated the application form does not call for a statement as to race but instead for the color of the applicant.

BUSHNELL advised some were challenged for using abbreviations of "M" for male and "F" for female in regard to the statement of sex. BUSHNELL stated that about 60 to 70 per cent of the challenges are based on the registrant's leaving blank or using the wrong word

in the part of the application that reads "I am not now registered as a voter in any other Ward or Precinct of this State except ....."

BUSHNELL reported that 1,058 Negro registrants have been challenged to date and that to his knowledge 33 of these have been rechallenged after having filed counter-affidavits. BUSHNELL also stated that no white registrants have been challenged to his knowledge. He stated the card of one white registered voter came through for processing but that when this was pointed out, he was told it was unintentional and that the individual was not to be challenged.

BUSHNELL stated there has been no statement or ruling to his knowledge as to the number of times a [fol. 50] person can be challenged. He stated the challenged registrants had a choice of having three counter-affidavits filed in their behalf by registered voters, or taking their case to Court to show they are legally registered.

This action, the filing of counter-affidavits, he stated must be taken within a deadline period of ten days and that failure to do so would cause cancellation of registration. He stated in all instances the challenged Negro voters of Rapides Parish have chosen the former course and a large per cent of those challenged have filed counter-affidavits as required by law.

He stated those not meeting the ten-day deadline requirement for filing counter-affidavits will be removed from voters' rolls.

BUSHNELL further stated when the challenged registrants have counter-affidavits filed stating they are properly and legally registered, the challengers have the alternative of rechallenging them or taking the matter to court to prove they are illegally registered and should be stricken from the registration rolls.

BUSHNELL stated the rechallenges now are mostly against the affidavits originally used by the challenged registrants in that they attest to know the challenged person.

[fol. 51] BUSHNELL stated a new affidavit had been drawn up which had the approval of the State Attorney General's office. He furnished a copy of this form which reads as follows:

"Personally came and appeared on this the ..... day of ..... 1956, before me ..... Registrar of Voters in and for the Parish of Rapides, State of Louisiana, ..... ..... ..... and ..... who first being duly sworn by me, do depose and say:

"That they are each personally acquainted with ..... ..... Registrant; that they have reason to believe and do believe that ..... application card for registration is properly completed, that they have investigated the facts of the case and of theer own personal knowledge know that ..... ..... application card for registration is properly completed, that they have investigated the facts of the case and of theer own personal knowledge know that ..... now resides at ..... Street, Precinct No. ....., Ward No. ..... of this Parish, and has continuously resided in that Precinct and Ward for the past ..... months, and has resided at the address aforesaid, and has resided in the Parish of Rapides for the past ..... months."

.....
Signature of registered voter

.....
Signature of registered voter

.....
Signature of registered voter

[fol. 52] "Sworn to and subscribed before me, on this .... day of ..... 1956

....."

"Registrar of Voters

BUSHNELL stated he had remained neutral in this matter and has attempted to discharge the duties of his office fairly and impartially as required by law.

BUSHNELL stated the action of the group of challengers has placed a tremendous burden on his office and has made it difficult for him to handle the required duties of his office promptly and efficiently.

BUSHNELL continued there has been no ruling from the Attorney General's Office of the State of Louisiana on the number of times a registrant can be challenged and consequently, the entire matter has results in a "merry go round" and that he, BUSHNELL, seems to be the "May Pole."

BUSHNELL stated that he knew of and had been advised of no other requirements of challenged voters then to file the necessary counter-affidavits in order to remain on the Parish registration rolls.

On November 15, 1956, BUSHNELL advised him that challenges and rechallenges of Negro registrants on the voter rolls of that parish continued through October 20, 1956. He stated that was the last date that a challenged voter could meet the ten-day deadline and still allow the Registrar of Voters to furnish a list of registration roll to the Clerk of Court one week [fol. 53] prior to the National Election on November 6, 1956. He stated the law provided that he must furnish a list of registration to the Clerk of Court one week prior to the National Election in order that the Clerk of Court could seal the list in the voting machines for each precinct. BUSHNELL related that members of the White Citizens' Council did not claim to understand this; but that he, BUSHNELL, stated he refused to accept any challenges or rechallenges after October 20, 1956.

Mr. BUSHNELL advised that 1,273 challenges to Negro registrants went out from his office. He stated that some persons in this number possibly received more than one challenge in view of the fact that there was a small per cent of duplication on the part of the individuals who were challenging the Negro registrants. BUSHNELL stated that of this number, 67 were rechallenged. They were rechallenged on the basis that the counter affidavit signed in their behalf did not attest

specifically to the fact that the challenged registrant was legally registered. Of this number BUSHNELL stated that 628 of those challenged were certified on the registration rolls of that parish as a result of having filed affidavits of three witnesses.

BUSHNELL stated that 626 were dropped as a result of not having answered the citation and challenge. He [fol. 54] stated that 81 of these challenges that were not answered were returned to his office undelivered by reason that the addressee had moved. He stated that one or two other had died during that period. He added that only one challenged registrant who came to answer the challenge was refused by the Committee of Negro Citizens and was removed for that reason.

BUSHNELL stated that the 628 figure was the number of Negro voters whose names were certified despite the fact that they were challenged.

BUSHNELL advised that about September 19, 1956, the White Citizens' Council demanded a change in the counter affidavit being used by the Negro registrants after 67 who had answered the challenge of their registration and were rechallenged. BUSHNELL stated as a result of this demand he took the matter up with the Attorney General's Office in Rapides Parish, Louisiana, discussed the matter with JACK GREMILLION, Attorney General, and the two reached an agreement as to the form to be used and which was previously reported.

The text of the form of affidavit used by the Registrar before a change in this counter-affidavit was demanded by members of the White Citizens' Council was taken from Louisiana revised statute R.S. 18: 132. A true copy of this affidavit was furnished by Mr. BUSHNELL and is set out as follows:

[fol. 55] "Personally came and appeared on this the ..... day of ..... 1956, before me, ..... (Deputy) Registrar of Voters in and for the Parish of ....., State of Louisiana, .....

and ..... and ..... who being first duly sworn by me, do depose and say:

"That they are each personally acquainted with ..... registrant; that they have investigated the facts of the case, and of their own personal knowledge know that ..... now resides at ..... Street, Precinct No. ..... Ward No. ..... of this Parish, and has continuously resided in that precinct and ward for the past ..... months, and during that time has resided at the address aforesaid, and has resided in the Parish of ..... for a period of ....."

.....
"Signature of registered voter.

.....
"Signature of registered voter.

.....
"Signature of registered voter.

"Sworn to and subscribed before
me, on this ..... day of ..... 1956.

.....
"(Deputy) Registrar of Voters."

[fol. 56] BUSHNELL advised that as of July 31, 1956, there were 3,177 Negroes contained on the registration rolls of Rapides Parish. BUSHNELL stated that 3,483 is the closest figure he can obtain as to the number of Negro registrants on the voter rolls of that parish shortly before the practice of challenging these registrants was started. He stated this figure was arrived at by adding 2,857, which was the number of Negro registrants on the rolls on November 6, 1956, and 626, which was the number removed from the rolls as a result of having been challenged. He stated the number of Negro registrants could actually have fluctuated between July 31, 1956, and September 9, 1956.

[fol. 57]

PLAINTIFF'S EXHIBIT No. 303

Special Agent Thurman P. Kelley of the Federal Bureau of Investigation will testify that on December 19, 1957, Mrs. WINNICE P. CLEMENT, the Registrar of Voters of Webster Parish, Louisiana, gave to him a signed statement, the full text of which is as follows:

"Minden, Louisiana
"December 19, 1957

"I, Mrs. Winnice Pratt Clement, make the following free and voluntary statement to Thurman P. Kelley and Anthony O'Tousa, who have identified themselves as Special Agents of the Federal Bureau of Investigation. No threats or promises have been made to cause me to make this statement and I have been told it may be used in a Court of Law against me. I have been advised of my right to consult an Attorney.

"I am the Registrar of Voters of Webster Parish, Louisiana, and have held this office for 17 years.

"I am attempting to run this office as best I can using the Louisiana State Law as my guide.

"When an individual comes into this office to register I find out where they live and then give them the "Form of Application For Registration" to fill out. After the card is completed I have the individual read a portion from the State Constitution and then explain it to me. If the individual can not read I read to them and then have it explained to me. Sometimes I have the applicant explain the Constitution before filling out the card and if the explanation is satisfactory they fill out the card if it is not satisfactory then I do not give them the card to fill out. I also tell the applicant their ward and precinct numbers after they tell me where they live.

[fol. 58] "I disqualify an individual if the 'Form of Application For Registration' is not properly filled out or if the individual cannot interpret the Constitution.

I ask for only a reasonable explanation. Some people ask me questions about the filling out of the card and I try to be reasonable in giving proper help and supervision.

"The above rules apply to all those attempting to register.

"To the best of my ability I am not showing any partiality or favoritism to any individual or group in allowing people to register.

"I do not keep any record of individuals who are turned down because they do not qualify.

"As of November 1, 1957 my records reveal there are 5,596 white registered voters and 70 colored registered voters in this parish.

"Every one who registers uses the same office. The is a sign on my door which states 'One in office at a time—Husband and Wife excepted'. This sign is on the door so I can properly supervise the registration of voters. The door has a clear glass panel so people from the outside of my office can see in.

"I am the only employee in the office; however, early in the year when the work was heavier Mr. H. E. Hamner, a local citizen, assisted me.

"Up until January 1, 1957 no one was required to interpret the Constitution; however, due to criticism of Registrar of Voters in various parts of the state I decided to abide by the State Law as near as I possibly could, and this being a requirement I put it into effect at the time everyone had to re-register. There is no discrimination involved in my handling this matter.

[fol. 59] "Having applicants explain clauses of the constitution has materially affected the number of registered voters in Webster Parish. It is noted that when the rolls were cleared as of December 31, 1956 there were some over 1700 Negro voters and slightly over 12,000 white voters. As previously noted there were 70 Negro registered voters and 5596 white registered voters as of November 1, 1957.

"I have read this statement consisting of this and three other pages and it is true.

"/ Winnice P. Clement

"Witnessed:

/s/ THURMAN P. KELLEY, Special Agent FBI, New Orleans, La.

/s/ ANTHONY O'TOUSA, Special Agent, F.B.I., New Orleans, La."

Special Agent Kelley will also testify that on March 6, 1958, Mrs. WINNICE PRATT CLEMENT, Registrar of Voters, Minden, Louisiana, advised him that as of February 1, 1958, there were 6303 white registrants and 71 colored registrants qualified to vote in Webster Parish. Of this group there were no white or colored illiterates.

She stated that she does not keep any record of the negro or white applicants that are rejected. She advised that often times she never learns their names inasmuch as they are not able to fill out the registration card or interpret the constitution.

She named three white registrants whom she refused to register for inability to fill out the application card and properly interpret the constitution. She stated that she was unable to recall any other individuals that had failed to qualify.

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[fol. 60]

PLAINTIFF'S EXHIBIT No. 304

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

WOODROW WILSON FARRAR advised him on December 20, 1956 that he had been Registrar of Voters since January, 1954. FARRAR stated that just prior to June, 1956 he was invited to attend a meeting of the local Citizens' Council held at the Courthouse, Farmerville, by RAYMOND F. MASLING, President of the Farmerville Citizens' Councils of Louisiana. FARRAR stated that

he was not a member of the Citizens' Council and had not previously attended any meetings. He stated that MASLING presided at this meeting, which was attended by numerous citizens and by members of the local Police Jury, including DENIS LONG, President of the Union Parish Police Jury. FARRAR stated that the topic of discussion at the meeting was the purge of the voter registration rolls of persons illegally registered. He advised that he recalls no specific statements or discussion by anyone present that the purge was aimed solely at removing Negroes from the rolls.

FARRAR continued that, in about June, 1956, and continuing through October, 1956, the following persons, and possibly others whom he did not recall, came into his office on several different occasions and examined voter registration cards:

*From Ward #1:*

ARMAND RABUN, Attorney;
JOHN C. WAGNON, Attorney;
BROADUS TAYLOR, Former Tax Assessor of Union Parish;
RAYMOND F. MASLING, Architect and Leader of local Citizens' Council.

*From Ward #2:*

S. H. COOPER;
B. J. HENRY.

[fol. 61] *From Ward #3:*

R. S. BURNSIDE;
W. H. BARRON;
C. D. ELKINS;
VIRGIL H. RHODES.

*From Ward #4:*

E. N. LEE;
W. C. SMITH.

*From Ward #8:*

BERT THEDFORD;
MAX PARKER.

FARRAR stated that, as the above-named persons came into his office for the purpose of examingng the registration records, he examined the record to verify that each was a duly registered and qualified voter of the Parish and that no errors appeared on their registration cards. He stated that he then made available to them for review all registration cards which they requested.

He advised that he maintained Negro and white cards separately in his file and that only Negro cards were requested in Wards #2, 3, 4, 8 and 9. He stated that on one occasion white and Negro cards from Ward #1 were requested and reviewed.

He advised that, as a result of these examinations, 600 Negroes and no whites were subsequently challenged. He explained that, on the one occasion when Negro and white cards from Ward #1 were examined, a number of challenge letters were made up based on errors found, an unknown number of which were for white cards, but that these letters were not mailed out within the 48-hour period as required by law, and that all of these letters were subsequently destroyed. He added that, thereafter, only Negro cards in Ward #1 were requested for review.

FARRAR stated that he had no part in the selection of those persons who were to be challenged and that he [fol. 62] merely made available for review all cards requested. He stated that he attempted to adhere to the letter of the law in handling these challenges and that he relied on the advice of his legal adviser, ARMAND RABUN, a local attorney, who was also active in making some of the challenges.

FARRAR stated that, if a challenged person came in in response to the challenge and filled out a card correctly, he was then required to interpret a clause of the Constitution, but, if he failed to give a reasonable in-

terpretation of the clause of the Constitution first given to him, he was then given an opportunity to try to read and interpret another clause of the Constitution. He stated that anyone challenged who was successful at filling out a card completely and correctly and then interpreting a clause of the Constitution was never dropped from the registration rolls.

FARRAR stated that none of those challenged raised the question of whether they could legally be required to interpret a clause of the Constitution or whether they might be legally required to fill out new registration cards, since they were already registered to vote. He stated that since the persons who had been challenged had not been required to interpret a clause of the Constitution when they registered previously, he required them to interpret a clause of the Constitution at the time they came in in answer to the challenges.

FARRAR furnished the following information as to numbers of registered voters in Union Parish:

Number of white voters, prior to the challenges—6895 as of February 1, 1956;

Number of Negro voters, prior to the challenges—1600 as of February 1, 1956;

Number of white voters challenged—none;

[fol. 63] Number of Negro voters challenged—600 (It is noted that FARRAR stated that he kept no list of those challenged and had no record of those challenged except for a file on each challenge sent out. He had the newspapers reflecting the publication of the names of those challenged, and he referred to those newspapers to obtain the number challenged.)

Number of white voters challenged who requalified—none were challenged;

Number of Negro voters challenged who requalified—estimated by FARRAR at 89, it being noted that the total who had registered and re-registered between February 1, 1956 and October 11, 1956 was 99;

FARRAR stated that he would have no way of knowing or estimating the number of Negroes who had tried but failed to requalify after the challenges.

Number of Negro voters on registration rolls after challenges—1099, as of October 11, 1956.

FARRAR stated that the vast majority of those challenged made no attempt to requalify. He stated that there were no challenges in Wards #5, 6, 7 and 10, but that challenges were made in Wards #1, 2, 3, 4, 8 and 9.

FARRAR stated that he had nothing to do with determining who was to be challenged, and that he acted in a purely administrative capacity in accepting and mailing the challenges. He stated that he did not discriminate against the Negroes and that he did not conspire [fol. 64] with anyone in connection with the challenges. He stated that, after the voter challenges began, he started requiring all persons, both Negro and white, who came in to register, to interpret a clause of the Constitution in order to register. He stated that there were very few white persons who registered during this period, but he recalled that he had refused to register one white man because of his inability to give a satisfactory interpretation of a clause of the Constitution. He could not recall the identity of any white person who had been unable to register because of failure to interpret a clause of the Constitution.

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[fol. 65]

PLAINTIFF'S EXHIBIT No. 305

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On November 19, 1956, Mrs. JOHN EARL JONES, Registrar of Voters, Lincoln Parish, Ruston, Louisiana, was interviewed at which time she advised him that she had been Registrar of Voters here since 1940.

Mrs. JONES stated that in about August, 1956 several members of local Citizens' Council had told her that they were going to purge her voters' list. In the latter part of August, Doctor W. H. KIMBELL contacted her and told her that he was chairman of the local Ruston Citizens' Council and that the Citizens' Council had voted to purge the voter registration rolls in the parish and requested her permission for Citizens' Council members to come in her office and review her records for that purpose.

She advised that she attended a meeting of the Citizens' Council members held in the Court Room of the Court House in Ruston in early September, 1956, at which time the subject of illegally registered voters and the block voting of Negroes was discussed. She stated that it was voted at that time to purge the voter registration rolls. Mrs. JONES related that to her knowledge, no specific statements were made by any members at this meeting or at any other time that the purpose was to get Negroes off of the registration rolls or that the voter registration purge was directed toward Negroes other than the fact that block voting of Negroes was mentioned at the above meeting. Mrs. JONES related that she was not requested to attend this meeting but merely attended it as an interested citizen. [fol. 66] She stated that on about September 1, 1956, members of the local Citizens' Council began coming into her office after hours and she agreed to stay after hours in her office and cooperated with them. She advised there were groups of seven or eight persons at a time in her office for a period of about three weeks and estimated that a total of forty or fifty persons actually came in and reviewed cards from time to time. Some of these were from Citizens' Council groups from Simsboro and Choudrant, Louisiana in addition to the members of the Ruston Citizens' Council. Mrs. JONES declined to identify any of these persons who were in her office actually reviewing cards and challenging voters.

Mrs. JONES stated that she granted these persons permission to review her records and they proceeded

to review the cards in Wards 1, 2, 3, and part of Ward 4. She advised that their purpose was to pull those cards which contained an error of any kind and as errors were found on these cards, the cards were pulled and were kept separately after putting a red mark on each card by each error. The pulled cards were then reviewed by other persons other than the one actually pulling the cards. At time she stated that she would review these pulled cards and on several noted that she herself had filled in part of the cards and had made an error and on several of these she obtained the approval of the Citizens' Council members present to place these cards back in the file of qualified voters. She stated that only a few such cards were put back, however.

According to Mrs. JONES, after these files were reviewed and all of the cards in the Wards mentioned [fol. 67] above were pulled, the Citizens' Council brought in several typists, who made out challenge forms and the Citizens' Council members began signing the challenges in her presence and she believed that each one signing had reviewed the registration card to which that challenge pertained as each card was attached to the challenge form for that card.

She stated that when the first challenged voters began to come in to the office, she showed them their cards pointing out the errors on each.

She stated that she then determined if the error was slight and serious and if it was slight, such as the information not being shown in the proper blanks and if she knew the person was qualified by education or their station in life, she allowed them to correct the card and do nothing else to requalify.

She stated that if she considered the error serious she showed the card to the challenged voter and allowed them to review it to see what the errors were. She would then take the old card from them and give them a new card and allow them to fill it out. After this card was completed she would take it and tell the person that they had to have three witnesses to identify

them and to sign an affidavit of retention. If this was completed, she would then tell them that she would determine later if they were qualified and would mail them a ceritificate of registration if qualified.

According to Mrs. Jones, there were 8,649 registered voters on October 6, 1956 of whom 7,638 were white and 1,011 were Negroes. She stated that she could locate no record of the number of voters registered prior to instant challenges.

[fol. 68] The lists furnished by Mrs. JONES reflect that a total of 353 persons were challenged, of whom 325 were Negroes and 28 white. It is noted that this list did not designate which persons were white and which were Negroes, but Mrs. JONES advised which of these were white and pointed out the 28 names referred to. Of these 234 failed to qualify or failed to answer the challenge of whom 224 were Negroes and 10 white. This list did designate the race of the persons listed. This would indicate that of 119 who reregistered and qualified, 101 were Negro and 18 white. It would also indicate that there were 8,883 registered voters prior to the challenges, of which 7,648 were white and 1,235 were Negroes.

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[fol. 69]

PLAINTIFF'S EXHIBIT No. 306

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On June 4, 1956, Mrs. MAE LUCKY, Registrar of Voters, Ouachita Parish, advised him that she was appointed as Registrar of Voters on January 1, 1953, and that permanent voters' registration was established in Ouachita Parish as of that time.

Mrs. LUCKY advised that shortly after the first primary election for the Governor of the State of Louisiana which occurred on January 17, 1956, she began receiving reports from various sources that the records of the Registrar of Voters' Office were to be checked for irregularities in registration. She advised that she did not know the identity of these individuals.

Mrs. LUCKY advised that it was her intention to place the records in shape prior to them being checked by these unknown persons, and she stated that she caused a review of the records and sent letters to 1,028 persons consisting of 364 white individuals and 664 colored individuals. She advised that this letter was sent to individuals that resided in every ward and precinct of the parish and was not confined to registrants living in the city of Monroe.

Such letters were mailed by the Registrar of Voters' Office between February 15, 1956, and April 3, 1956. She advised that the registration cards in the Registrar of Voters' Office, many of which had been prepared by employees prior to her assuming office, had a great many mistakes. She stated that some of [fol. 70] the cards were over seven years old and the person registering had failed to complete the card, had placed an improper date of birth or failed to file the card, and in many cases the Registrar or Deputy Registrar had failed to sign the card.

Mrs. LUCKY advised that about March 1, 1956, a group of individuals under the direction of BILLYE ADAMS, an attorney and now president of the Citizens Council of Ouachita Parish, started a check of the rolls of the office of the Registrar of Voters. She advised that a check was started with Ward 10, Precincts 6, 7, 8, 9 and 10, in which there were approximately 3,000 Negro voters registered and also Ward 3, which had approximately 300 Negroes registered. She advised that these wards are the wards comprising the area of the city of Monroe, but stated that the boundaries of Ward 10 are not identical with the boundaries of the city of Monroe. Mrs. LUCKY advised that these precincts in Ward 10 are predominantly Negro.

Mrs. LUCKY made available a copy of a list of the items which the Citizens Council were checking. This list is as follows:

"KEY

1. Application not filled out.
2. Writing on card and Signature does not match.
3. Ability to interpret Constitution.
4. Not sworn before registrar or deputy.
5. No application card.

[fol. 71] 6. Name on application and certificate are difference.

7. Two cards—One person
8. No proof of identification and age.
9. Signature at top of certificate different from voting signature.
10. Application not signed (Printed)
11. Improper application form.
12. Application signed "X", but no witness.
13. No signature on voting certificate."

Mrs. LUCKY advised that on April 16, 1956, the first affidavits of the Citizens Council were filed and the first letters were sent out. She advised that among this group, only Negro registered voters were challenged to the best of her knowledge. She advised that this challenge was not particularly extensive, but could give no figures on the exact number of challenges that were mailed. She advised that this group of challenges did not conflict with the challenges that had been mailed by her office prior to the Citizens Council Committee instituting their check.

Mrs. LUCKY advised that during a period of four days following the general election of April 17, 1956, and thirty days before the election of May 22, 1956, the books were opened for registration. She advised that the Citizens Committee, who were present in her office during this time, claimed to have observed irregularities and then went back over the records of the

Negro registered voters and challenged a large number of them. Mrs. LUCKY advised that she estimates [fol. 72] that there were 4,000 registered Negro voters in the city of Monroe as of January 16, 1956, and on May 15, 1956, there were 921 registered Negro voters. She stated she could only approximate the number in January, but the number on May 15, 1956, is accurate.

Mrs. LUCKY advised that after the first challenges were mailed out by the Citizens Council, very few people came in at first to correct their cards. She advised that the persons that would come in were advised that it would be necessary for them to bring three witnesses to identify the individual challenged or to re-register to vote. She advised that the first individuals that appeared at the office were advised that they must have to identify them a registered voter from the same precinct who had not been challenged by the Citizens Council and that a voter could identify only one person.

Mrs. LUCKY advised that this was her understanding of the law and that she received no advice from the Citizens Council or anyone else as to the procedure to be followed. She advised that after a few days of this procedure, Mr. JAMES A. NOE, former governor of the State of Louisiana, protested the procedure and Mr. WILLIAM SHAW, Assistant Attorney General, for the state of Louisiana, advised her that the procedure was incorrect and that a voter could identify any number of persons just as long as he was a registered voter. Mrs. LUCKY further advised that those individuals that were re-registered were not required to interpret the Constitution.

[fol. 73] Mrs. LUCKY advised that the corners, stairways, and halls of the Court House at Monroe, Louisiana, became filled with individuals attempting to file affidavits and answer the challenges of the Citizens' Council. She advised that it was possible to handle approximately 100 individuals per day, but many more were present and could not be handled. She advised that her office was oepn at 8 AM in the morning and remained open during lunch period until 5 PM. She stated on Saturday her office was open one-half day.

She advised that those persons who could not be handled during office hours were requested to return the next day. She stated that one of the reasons she could not keep her office open later was it was necessary for her to sign the affidavits prepared by the Citizens' Council and do other necessary work in connection with the preparing of the lists for the polls in the May 22, 1956, city election.

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[fol. 74] PLAINTIFF'S EXHIBIT No. 307

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On August 13, 1956, Mrs. Mae Lucky, Registrar of Voters, Ouachita Parish, Monroe, Louisiana, advised him that she had a list of 3183 names of persons to whom she stated letters had been sent between May 30, 1956, and June 4, 1956, advising them to come in and reregister. She stated that nearly all of these letters were directed to white persons as Negroes had already been challenged by the Citizens' Council. Of this number, approximately 2100 persons came in to reregister, according to Mrs. Lucky. She stated that no record was kept of those who were disqualified, but that she did not disqualify anyone on interpretation of the Constitution. She stated that a small number, possibly as many as twenty, either were unable to fill out their registration cards or they refused to do so, and for that reason they were not reregistered and were removed from the roll of voters.

When interviewed on August 13, 1956, Mrs. Lucky stated she had required everyone who came in in response to these letters to reregister and to read and interpret a portion of the Constitution. Subsequently, Mrs. Lucky was re-interviewed on August 17, 1956, after a number of persons had been interviewed and had advised that they were not required to read and interpret a portion of the Constitution, and, at that time, she stated that she was mistaken as to having [fol. 75] required everyone to read and interpret the

Constitution. She stated she had not required everyone to do so during the first couple of days when people were coming in in such great numbers in response to this group of letters, as she was so rushed. She stated, however, that she did require anyone whom she did not know and whom she suspected of being unable to do so to read and interpret a portion of the Constitution. Mrs. Lucky advised that, after about two days from the time this group began coming in, she began requiring everyone to read and interpret the Constitution in order to reregister.

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[fol. 76] PLAINTIFF'S EXHIBIT No. 308

Special Agent Regis Kennedy of the Federal Bureau of Investigation will testify that:

On June 5, 1956, Mrs. Mae Morin advised him that her responsibility as Deputy Registrar has been for the most part the handling of Negro registrants incident to the volume of challenges which were sent out by the Citizens' Council. She was extremely burdened with the reregistrations and new registrations of the Negro voters. She stated that from time to time Mrs. Lucky assisted her in the reregistration and registration of these voters.

She advised that during the course of answering these challenged registrants she had occasion to have representatives of the Citizens' Council to observe her in the act of registering these potential voters. She stated that for the most part and almost entirely these individuals sat in the Ouachita Parish police jury room apart and away from where her desk was located in this office. She stated on only one instance could she recall any interference by any of these individuals. She stated that she could not identify this person who interfered but related that during the course of questioning a registrant as to the interpretation of the Constitution, this unidentified individual interjected and said she was being too easy with this person. Mrs. Morin

said that she advised this individual to stay behind the police jury enclosure and to have nothing further to [fol. 77] do with her when a registrant was being interviewed. She said that she told this individual that if he had anything to say to her, he could say it after she completed her interview or at a time when she was not busy.

On June 8, 1956, Mrs. Morin advised that the procedure now being followed in the Registrar of Voters' Office is to have the individuals that have been challenged and removed from the rolls be reregistered at which time they are required to give an interpretation of the Constitution. She, as Deputy Registrar, is the individual who makes the decision as to whether the interpretation is correct. At the present time, they are using some cards prepared by the Citizens' Council which has a larger sized type than found in the usual copies of the Constitution, which the applicants for registration are required to read and interpret. Mrs. Morin advised that she is keeping all of the registration cards of the persons who do not qualify for registration with the reasons for their failure to qualify written on the back.

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[fol. 78] PLAINTIFF'S EXHIBIT No. 309

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

On August 13, 1956, Mrs. Mae Morin, Deputy Registrar of Voters, Ouachita Parish, Monroe, Louisiana, advised him that she did not wait on any white persons who came in in response to the 3183 letters sent out between May 30, 1956, and June 4, 1956. She stated she waited on all the Negroes who came in and that she did require them to read and interpret a portion of the Constitution. She stated that nearly all the Negro voters had already been challenged by the Citizens' Council so that very few Negroes were included in this particular group of 3183 letters. When Mrs. Morin was re-interviewed on August 17, 1956, she stated that

she had received telephone calls from persons contacted by the FBI in connection with this investigation saying that she had waited on them when they came up to reregister. She stated that she had thought about this matter further and recalled that she did relieve Mrs. Lucky during noon hours on different days and that she, therefore, did wait on a small number of white persons who came up in response to these letters. Mrs. Morin stated she could not tell the ones she waited on without actually checking each individual registration card, but that she was sure she had required each one she waited on to read and interpret a portion of the Constitution in order to reregister.

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[fol. 79] PLAINTIFF'S EXHIBIT No. 310

Special Agent Regis L. Kennedy of the Federal Bureau of Investigation will testify that:

On November 26, 1956, Joseph Albert Hall Slawson advised him that he had been Registrar of Voters for DeSoto Parish for fifteen years. He advised that there were approximately 770 Negro voters in the parish prior to the issuing of the challenges. He advised that there were 387 challenges issued by various individuals which comprised four white individuals and 383 colored individuals. He advised that one white woman was returned to the rolls by virtue of an affidavit signed by three persons and forty-eight Negro voters returned to the rolls after the challenges had been withdrawn by Mr. C. H. Moore. He advised that one white person was returned to the rolls by virtue of Moore withdrawing his signature.

Mr. Slawson further advised that he recalls about eight or nine challenges which were prepared which he personally determined were based upon cards which did not have errors therein, and he refused to sign these citations. He stated at this time he did not recall the identity of the eight or nine individuals to whom the challenges were not sent. He further advised that he recalls approximately three individuals returning

to his office, and after checking their registration card found it to be in order, and he then destroyed the challenges and returned the individuals to the rolls. Mr. Slawson advised that he did not know whether this was correct or not, but that he felt it was. He stated he did not recall the identity of these three individuals.

[fol. 80] Mr. Slawson advised that he recalled that two letters addressed to challenged voters were returned undelivered, and the brother of one of the individuals appeared at his office and obtained one of the challenged letters. He stated he was unable to locate the remaining challenged letter.

He was asked if all of the challenges were signed before a notary public and he advised that they were. He advised that he personally did not witness any of the signatures on the challenges. He advised that all of the signing of the challenges took place in his office.

Mr. Slawson stated that he did not contact the Attorney General of the State of Louisiana as to the propriety of this procedure of signing the challenges before a notary public, but was advised by various individuals that the signing of the affidavits before a notary would be proper.

Mr. Slawson was asked the identity of the various individuals he contacted for this advice and replied that it was various individuals including his lawyers in town and also Senator William M. Rainach, the head of the Citizens' Council for the State of Louisiana.

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[fol. 81] PLAINTIFF'S EXHIBIT No. 311

Special Agent Earl Cox of the Federal Bureau of Investigation will testify that:

Mrs. Estelle Wilder, Registrar of Voters, Jackson Parish, Jonesboro, Louisiana, advised him on November 8, 1956 that Louie C. Boss, President of the Jackson Parish Citizens Council, first mentioned to her purge of registration records around four or five months ago. She stated that nothing further was said

about this matter until about October 1 or 2, 1956. She stated that about that date Boss and Pipes and others from the Citizens Council came in and reviewed voter registration records for a period of two or three days. She stated that as far as she knew, they reviewed all the registration cards without discrimination against the Negroes.

Mrs. Wilder stated that the registration cards are filed by Wards and Precincts with the Whites of the precincts in alphabetical order, followed by the Negroes in that precinct alphabetized separately but filed in the same file behind the Precinct number. Mrs. Wilder stated that she did not review the registration cards personally of those who were challenged. She stated that the basis used by the Citizens Council for the challenges was "incorrect and/or incomplete application for registration." She stated that any blank on the registration card not filled in might be used as the basis for a challenge.

Mrs. Wilder said that none of the challenges were mailed out during the week of October 1-6, 1956, but all challenges were mailed on October 8, 1956. She stated that the registration books were closed on October 6, 1956, and no registrations were permitted from that date until after the Presidential election on November 6, 1956.

Mrs. Wilder denied that the purpose in mailing all of the challenges after the books were closed was to prevent those challenged from re-registering or correcting their registration until after the Presidential election.

[fol. 82] Mrs. Wilder stated that she discussed with Assistant State District Attorney David T. Caldwell, Jonesboro, whether it would be proper to mail the challenges after the registration books were closed and he advised her that, if that was as soon as she could get them mailed, it would be all right to mail them after the books were closed.

Mrs. Wilder stated that a total of 966 challenges were mailed on October 8, 1956. She stated that she

did not know how many Negroes or how many Whites were challenged and she denied that Negroes were discriminated against, to the best of her knowledge. She stated her records reflect that, as of August 31, 1956, there were 6572 registered voters in Jackson Parish—5450 Whites, of whom 44 were illiterate; and 1122 Negroes, of whom 18 were illiterate.

Mrs. Wilder stated that as of October 19, 1956, after the challenged voters had been deleted, there were 5701 registered voters in the parish—5534 Whites, of whom 50 were illiterate; and 167 Negroes, of whom 9 were illiterate.

Mrs. Wilder, after reference to her challenged-voter list, advised that 13 White voters were challenged, and the remaining 953 of those challenged were Negroes.

Mrs. Wilder stated that prior to 1953 it was the usual procedure for the Registrar of Voters to fill out the registration cards for nearly all persons who registered and that she also filled out many of the registration cards in 1953 and up to 1956. She stated that she also filled out a number of those registration cards still in the file that were not challenged. She stated that she had filled out the cards of many of those who were challenged. Mrs. Wilder stated that prior to the challenging of voters that began in 1956, she had not required that persons registering had to fill in all the blanks on the registration card, and that, in fact, she had not filled in some of the blanks on registration [fol. 83] cards she had filled out, as she did not consider it necessary at that time.

Mrs. Wilder stated that those who received challenges started coming in immediately after the challenges were mailed. She stated she told them that the books were closed and they could not reregister until after the election and that the only way they could avoid being striken from the registration rolls was to have three witnesses sign an affidavit that their registration cards were complete and correct and that any witness signing such an affidavit would be subject to prosecution, with a fine and jail sentence, if there were

any error or incompletion on the registration card. She stated that the only official affidavit forms provided for a challenged voter is Form LR-15, which form provides that the three witnesses signing, attest to their acquaintance with the challenged voter and attest to his residence in the precinct and ward of the parish where he is to vote.

Mrs. Wilder stated that many Negroes came in with typewritten copies of Form LR-15 but she advised them that she could not accept an affidavit as set forth on type form as it related question of residence and their challenge was based upon an error or incompletion on their registration card.

Mrs. Wilder stated that of the 966 persons challenged there were 4 re-instatements: two white persons and two Negroes who were physically disabled to fill out their registration cards.

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[fol. 84] IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Number 2548 Civil Action

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UNITED STATES OF AMERICA

versus

STATE OF LOUISIANA, et als.

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**Transcript of Proceedings—March 4, 1963**

* * * * * * *

[fol. 85] ARGUMENT ON BEHALF OF THE PLAINTIFF BY MR. DOAR

Now, in connection with that injunction, with that prayer, it is our position that we are entitled to that type of injunction against the Registrar, against the State, par-

ticularly with respect to those parishes where the Constitutional Interpretation Test has been used.

Now, the Court of Appeal, in the case of United States versus Alabama, laid down the test for determining what relief should be issued in a case of this kind and the case decided that under the 1957 Civil Rights Act that the Court has the power to issue broad relief and the question of whether or not this broad relief should be issued should be based upon two factors:

(1) Whether or not there had been a gross abuse in the past. We say there has been a gross abuse in the past as a result of the purges and interpretation tests, literally thousands of negroes have been kept off the rolls, [fol. 86] in northern Louisiana, principally, for the last four or five years.

As the Court recognized in Manning, this inevitably had an inhibiting effect on other qualified negro voters who were not willing to run the gauntlet of the humiliation and discriminatory practices. If there was ever any case where there was gross abuse, this is the case.

The next question comes down to whether or not the State has done anything to remedy the discrimination. Now, I think the Court would concede that the State of Louisiana could not stop using the constitutional interpretation tests and then take and adopt a test that would provide that all whites should register and no negroes should register. The test is not really whether or not they stopped using the test but the test, as laid down in United States versus Alabama, was whether or not the evidence showed there was a plan or a purpose for the Board or the State to undertake voter registration without conscious racial discrimination.

Now, the State has offered, in these particular parishes, this new objective, on their face, standard written multiple choice test, sixty-six and two-thirds per cent passing grade test and I want to suggest to this Court, which I think is [fol. 87] the critical question in this case—I want to suggest in this case, that in the parishes which have used this test, have used the Constitutional Interpretation Test that, under

the doctrine as enunciated, this test cannot be used because it is not a device to end discrimination but rather it is a device to perpetuate discrimination, because statistically all of the whites are on the rolls and very few of the negroes are on the rolls, and the only people required, in many of those parishes, to take the test, the new tests, or the new objective tests, are the negroes.

Now, this principle of freezing the rolls by elevating the standards is an issue that has not been passed upon directly by any court but I say that the principles are clear from the Guinn, the Lane and the Lassiter cases and I want to just not go back to the Guinn and Lane cases, but I do want to go—

The Court (Judge Wisdom): Those are the Oklahoma cases?

Mr. Doar: That's right, they were both Oklahoma cases.

The Court (Judge Wisdom): Guinn, Lane,—what was the other?

Mr. Doar: The Lassiter, the last case is the Lassiter. [fol. 88] Now, in Lassiter, the Court said that a literacy test, fair on its face, may be employed to perpetuate that discrimination which the Fifteenth Amendment was designed to up-root and earlier in the opinion the Court said, and here is a very interesting part of the opinion which has not been cited in the brief, at pages 49 and 50 in the Lassiter case, where the facts of that case was a negro citizen who just refused to take the test, started the action in federal court and claimed he was not required to take the literacy test. The federal court maintained the jurisdiction and instructed the negro to go to the State Court for a determination of that part of the statute; that the grandfather clause would be declared unconstitutional. She did that and it went to the Supreme Court and the Supreme Court held that the literacy test was proper; however, this is what the Supreme Court said: That the negro plaintiff argued "that that is not the end of the problem presented by the grandfather clause. There is a provision in the general statutes for permanent registration in some counties. Appellant points out that although the cut-off date in the grandfather clause was December 1, 1908, those who regis-

tered before then might still be voting." And he said, "If [fol. 89] they were allowed to vote without taking a literacy test and if appellant were denied the right to vote unless she passed it, members of the white race would receive preferential privileges of the ballot, contrary to the command of the Fifteenth Amendment. That would be analogous to the Yick Wo versus Hopkins." But the Court said, "But this issue of discrimination has not been confined to the issues presented for the State court litigation . . . so we do not reach it. But we mention it in passing so that it may be clear that nothing we say or do here will prejudice appellant in tendering that issue in the Federal proceedings."

I say the State of Louisiana, by offering Exhibit 18, saying "This is the test we use," showing there has not been complete registration, I say we are tendering this issue to the Court for decision on the provisions of 2284 that indicates that when a three-judge court is duly constituted, to pass on constitutional issues, it has the right, power and authority to pass on all issues presented to it.

Finally, there are two other cases that I want to call the Court's attention to. And the first one is the case of Ross versus Dyer, which was decided on December 28th before [fol. 90] Judge Tuttle, Judge Hutchinson and Judge Brown, and the school case out in Dallas, your Honor, that involves whether or not a District Court had the power to provide for a school desegregation plan which contemplated the brother-sister rule. We think that the argument was "Well, each person with a brother or a sister is treated the same now, and therefore, the fact that the brother-sister rule is in effect cannot be held to be discriminatory and contrary to the Fourteenth amendment." But that has the effect of sending back and resegregating children, if, say, a younger child went to school, that had the effect of perpetuating the segregated system despite the purpose of the plan to ameliorate it.

The purpose of the decree is to eradicate that unconstitutional deprivation of equal protection, not to perpetuate it.

Now, in this case where you have a hundred per cent of the white people on the rolls in Bienville Parish, for ex-

ample, and none of the negroes, regardless of what the test is, you are perpetuating that preferential treatment to the white folk.

The final case that I want to cite to the Court's attention is the decision by Judge Bootle of the Middle District of Georgia, sitting as a member of the panel on the Fifth Circuit in a case which came up from Mississippi which [fol. 91] this court again—this is the Dogan case which was decided on January 26th, in which the Court again recognized the theory of the Guinn and Lane Cases in that statutes and tests are unconstitutional if the result is to recreate or perpetuate the very conditions which the Amendment was intended to destroy. Now, in this case, this was the simple proposition that negroes went to pay the poll tax and whoever paid for the first time the poll tax must see the sheriff. Not a very difficult provision for paying the poll tax, only onerous, but it was not any more onerous than this test, and yet the court held that they could not make that provision in state law. This was not an undue burden on Federal-State relations. They did not make them start over, everybody do it. They made the first-time poll tax payers do it. The first time poll tax payers, because of the prior discrimination, were all negroes.

And so I suggest to the Court that this is the question and one of the really significant important questions that this Court has to decide here is whether or not in those twenty-one counties where the interpretation test was used to discriminate, whether or not where most of the white [fol. 92] people were on the roll now and few of negroes, whether or not this test is, instead of being a good faith effort by the State to eliminate, and not undertake, as the Court in United States versus Alabama, that voter registration case, without conscious racial discrimination, or whether or not it was a scheme to perpetuate that discrimination which has taken place in the past.

The Court (Judge Wisdom): Is it your idea that the injunction would be applicable only to those parishes?

Mr. Doar: Yes sir, I think it would.

I would like to ask leave, in connection with Mr. Kron's brief, to submit to the Court prepared findings and conclusions and a proposed decree if that would be permissible to do so. I would like to do it sufficiently in advance of Mr. Kron's deadline, so that he would have an opportunity to reply to it. Perhaps we could do that in, say, fifteen days and then he will have an opportunity to comment on them, too.

The Court (Judge Wisdom): That will be agreeable with the Court.

[fol. 93] Mr. Doar: Thank you, your Honor.

COLLOQUY BETWEEN THE COURT AND COUNSEL FOR THE DEFENDANT, MR. KRON

The Court (Judge Wisdom): We realize that you have a great burden because of the mass of material that has been produced here today and which you have not really had a chance to absorb and analyze, so I hope you will understand that we do realize what your problem is and if you find, after going into this, that you need oral argument later, we will consider that. We hope we will not have to come back here again.

Mr. Kron: It may or may not be, if your Honors please, that we would like to make any more argument at a later time, however, I can see already, the comprehensive nature, and actually an enlargement of the request for the type of judgment that has been rendered or to be rendered, that it is almost impossible as of now to make a concise, detailed intelligent approach to an argument in this case.

After all, our fundamental argument is that the constitutionality of this provision is presumed and it is, therefore, up to the plaintiff to show otherwise and then resolves itself in the main to a question of the development [fol. 94] of a record based on the facts which existed prior to the adoption of the constitutional provision, which is to be declared invalid on its face and, secondly, the facts as are presented today as to its use over the years in a discriminatory manner. The result, then, if I might refer your Honors to the end statement in Plaintiff's brief, that the validity of the interpretation test can be measured not by

the pleadings, but by the detailed evidence of the discriminatory setting.

With that in mind, I would like, if the Court please to beg to be excused from any further argument at this time so that we can thoroughly study the situation. We can study the issue presented by these facts and intelligently come back with our complete argument in one concise package.

Again I say that if we can find that our written brief in our opinion will satisfactorily cover it, of course, we will desist from asking for oral argument.

I might point out to this Court, however, that the very issue that Mr. Doar raised in the final moments of his argument have been raised in two separate lawsuits recently filed in Red River Parish, a permanent registration parish, and Webster, a periodic registration parish. The very issue as to whether or not this new test under the provisions of [fol. 95] the '62 Act should be applied because of that discriminatory situation that he raised; so that, to me, becomes extremely important to the matter of the controversy in this case and, at the moment, I am not prepared legally to discuss it.

The Court (Judge Wisdom): Isn't it a fact that two other suits have been filed?

Mr. Kron: I don't know about the fact that suits have been filed, Judge, but what I am saying, that this is the first time this issue has been raised in this matter. As Mr. Doar pointed out, it is a new issue. Now, we are researching the question now, preparatory to filing answer in those two suits.

The Court (Judge Christenberry): You filed no brief?

Mr. Kron: No sir, I had prepared a brief but then on Wednesday and again on Friday, after conferring with these men, with counsel, and also you are involved in the trial of those cases, so we visited with Judge Wisdom. I missed Judge West. He and I were between Baton Rouge and New Orleans conversely.

We decided, after talking it over, that we would like, if [fol. 96] possible, to withhold what brief we had and file our brief in one complete document. If I can get that permission and the time, I would like to do it that way.

The Court (Judge Wisdom): Mr. Kron, I have consulted with the other members of the Court and the Court will accede to your suggestion. You are to get your brief in within thirty days.

Mr. Kron: Yes sir.

The Court (Judge Wisdom): While there is this great mass of material, I am sure that you are very familiar with the basic principles involved and with most of the facts as you have been in so many of these cases.

Mr. Doar, you will sketch the proposed findings of fact.

Mr. Doar: We will get that in to your Honors.

* * * * * * *

[fol. 96a] Reporter's Certificate to foregoing transcript (omitted in printing).

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[fol. 97] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2548

[Title omitted]

NOTICE OF MOTION AND MOTION FOR LEAVE TO REOPEN CASE TO OFFER ADDITIONAL EVIDENCE BY WAY OF DEPOSITIONS —Filed April 10, 1963

To: Each Party, and to the Attorney of Record of each Party Herein.

Please Take Notice that on Wednesday, April 17, 1963 at 9:30 a.m. or as soon thereafter as counsel may be heard at 400 Royal Street in the Courtroom of the United States District Court for the Eastern District of Louisiana, Plaintiff will move the Court for leave to reopen the case [fol. 98] for the purpose of offering additional evidence by way of one or more depositions, that is, the deposition of the Registrar of Voters of Webster Parish and/or the depositions of about ten Negro citizens of Webster Parish. This motion will be based upon the attached affidavit

of Louis M. Kauder and upon all of the pleadings, documents and evidence in the record in this case.

David L. Norman, Attorney, Department of Justice.

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ORDER—April 11, 1963

Plaintiffs' motion to re-open case for purposes herein set forth is Granted.

New Orleans, La., April 11, 1963.

John Minor Wisdom, Judge, U. S. Ct. of Appeals; Herbert W. Christenberry, Judge, U. S. Dist. Court; E. Gordon West, Judge, U. S. Dist. Court.

[fol. 98a] Certificate of Service (omitted in printing).

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[fol. 99]

AFFIDAVIT

City of Washington,
District of Columbia, ss

On this 8th day of April, 1963, Louis M. Kauder, being first duly sworn, says as follows:

My name is Louis M. Kauder. I live at 1111 Army-Navy Drive, Arlington, Virginia. I am a trial attorney in the Civil Rights Division of the United States Department of Justice.

On Wednesday, March 20, 1963, Alexander Ross, also a trial attorney for the Department of Justice, and myself were in Minden, Louisiana, the parish seat of Webster Parish, in connection with a lawsuit that had been filed by the United States of America against the State of Louisiana and Winnice C. Clement, Registrar of Voters for Webster Parish. This lawsuit, filed in the United States District Court for the Western District of Louisiana on February 18, 1963, charges the defendants with acts of racial discrimination against Negro applicants for voter registration in Webster Parish. Our assignment was to speak to prospective witnesses who had made application for registration to vote.

We personally interviewed 13 persons who informed us that they made applications for voter registration in Webster Parish within the previous month and in the course [fol. 100] of making application had to read a portion of the Louisiana Constitution and explain what they read to the registrar. The earliest date on which any one of these persons was required to interpret the Constitution was February 21, 1963. The latest date was March 15, 1963. Applicants who were at the registrar's office on March 15 reported that they were told by the registrar that on that date the registration books were being closed for a thirty-day period.

This affidavit is made in support of a motion to reopen the record in the case of *United States* v. *Louisiana, et al.* (C.A. No. 2548), pending in the United States District Court for the Eastern District of Louisiana.

Louis M. Kauder

Sworn to and subscribed before me this 8th day of April, 1963.

(Seal)

Linda K. Stores, Notary Public, My commission expires 8-31-63.

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[fol. 101]

IN THE UNITED STATES DISTRICT COURT FOR THE
NEW ORLEANS DIVISION

BATON ROUGE DIVISION

Civil Action No. 2548

[Title omitted]

STATEMENT IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO REOPEN CASE TO OFFER ADDITIONAL EVIDENCE BY WAY OF DEPOSITIONS

The United States filed this action against the State of Louisiana and the State Board of Registration on December 27, 1961, seeking a judgment declaring Louisiana's

constitutional interpretation test for voter registration invalid and enjoining its use.

In August 1962 the defendant Board of Registration, pursuant to legislative directive, promulgated a new, multiple-choice written test for voter registration and issued instructions to the registrars requiring that they use the new test.

[fol. 102] On December 20, 1962, this Court was informed at a pre-trial conference by counsel for the defendants that the interpretation test was no longer in use, and that the State would take the position at trial that the disuse of the old test as a voter qualification in Louisiana makes unnecessary a decision in this lawsuit. At the trial of the action on March 4, 1963, counsel for the defendants reserved argument and presented no evidence, except for the stipulated testimony of Hugh Cutrer, Director and Ex Officio Secretary of the State Board of Registration, to the effect that no registrar in the State was presently using the interpretation test. Counsel for the defense was given thirty days, or until April 4, to submit his brief, the Court withholding decision as to whether further oral argument will be heard until that time.

The question of what specific declaratory or injunctive relief the plaintiff is entitled to is still to be decided by the Court. The purpose of this motion is to reopen the record in the case to permit the taking of depositions in Webster Parish (which is in the Western District of Louisiana) in order that Court might have the full story of the continuing use of the interpretation test before a decision is reached in this case. If the test is still in use, the Court is entitled to have proof of that fact before it decides the case.

[fol. 103] The motion and attached affidavit set forth the circumstances under which it came to the plaintiff's attention that the interpretation test was still in use. A motion to reopen a non-jury case while the Court still has the case under advisement should be granted if substantial justice so requires. *Haugen* v. *U. S.*, 153 F. 2d 850 (C.A. 9, 1946); *Bowles* v. *Six States Coal Corp.*, 64 F. Supp. 651 (W.D. Pa. 1946); see generally 6 Moore, Federal Practice § 59.04[13] (2d ed. 1953).

Finally, it should be noted that, although this case is to be decided by a three-judge court convened in accordance with 28 U.S.C. 2281, under 28 U.S.C. 2284(5) "[A]ny one of the three judges of the court may perform all functions, conduct all proceedings except the trial, and enter all orders required or permitted by the rules of civil procedure." Under the statute, this Court, comprised of a single judge, is fully empowered to enter an order that the record in this case be reopened for the limited purpose of taking and submitting depositions relating to the continued use of the interpretation test in Webster Parish.

David L. Norman, Attorney, Department of Justice.

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[fol. 104] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

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UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as Members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed December 27, 1963

I. Notice is hereby given that the State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary

of the Board of Registration of the State of Louisiana, the defendants above named, hereby appeal to the Supreme Court of the United States from the final order declaring a portion of Article 8, Section 1(d) of the Constitution of Louisiana (the interpretation test) unconstitutional on November 27, 1963.

This appeal is taken pursuant to 28 U.S.C. Section 1253.

II. The Clerk will please prepare a transcript of record in this cause for the transmission to the Clerk of the Supreme Court and include in said transcript the entire record of the proceedings, including this Notice of Appeal.

III. The following question is presented by this appeal:

1. Whether Article 8, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain [fol. 105] to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

Jack P. F. Gremillion, Attorney General of Louisiana, Carroll Buck, First Assistant Attorney General, Harry J. Kron, Assistant Attorney General, Thomas W. McFerrin, Special Counsel.

[fol. 105a] Proof of service (omitted in printing).

[fol. 106] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

---

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF LOUISIANA; JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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DECREE—January 28, 1964

Pursuant to the Findings of Fact, Conclusions of Law and Memorandum Opinion entered in this case:

It is Adjudged and Decreed that the provisions of Article 8, Section 1 of the Louisiana Constitution and the provisions of the statutes of Louisiana in so far as they provide for or relate to the requirement that electors must be able to understand or interpret any portion of the Constitution of the United States or the Constitution of the State of Louisiana are unconstitutional.

[fol. 107] It is Ordered that the defendants, including all parish registrars, their agents and successors are enjoined from enforcing or giving any further effect to the requirement of Article 8, Section 1 of the Louisiana Constitution and the statutes implementing Article 8, Section 1 in so far as they pertain to the understanding or interpretation test as a prerequisite to registration to vote.

It is Ordered that in the following twenty-one parishes: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita,

**Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn, the defendants, their agents and successors, including the following registrars of voters**

| Parish | Registrar | Office Address |
|---|---|---|
| Bienville | Mrs. Pauline A. Culpepper | Arcadia, La. |
| Claiborne | Mrs. Louise Linton | Homer, La. |
| DeSoto | Sidney Wells Platt | Mansfield, La. |
| East Carroll | Cecil E. Manning | Lake Providence, La. |
| East Feliciana | Henry Earl Palmer | Clinton, La. |
| Franklin | Mrs. W. A. Hatton | Winnsboro, La. |
| Jackson | Mrs. Estelle Wilder | Jonesboro, La. |
| LaSalle | John S. Allen | Jena, La. |
| Lincoln | Mrs. Wanda C. Gibson | Ruston, La. |
| Morehouse | Margaret Larche | Bastrop, La. |
| Ouachita | Mae Lucky | Monroe, La. |
| Plaquemines | Mary Ethel Fox | Pointe-a-la-Hache, La. |
| Rapides | Cleighton L. Bushnell | Alexandria, La. |
| Red River | J. Walton Crawford | Coushatta, La. |
| Richland | Mrs. Lula C. Cheek | Rayville, La. |
| St. Helena | Quitman Crouch | Greensburg, La. |
| Union | Woodrow W. Farrar | Farmerville, La. |
| Webster | Mrs. Winnice P. Clement | Minden, La. |
| West Carroll | Mrs. Ora Cameron | Oak Grove, La. |
| West Feliciana | Fletcher Harvey | St. Francisville, La. |
| Winn | Charles H. Crain | Winnfield, La. |

[fol. 108] are Enjoined from:

requiring, absent a general re-registration of all voters in the parish, any applicant for registration of voting age and possessed of the residence requirements as of August 3, 1962 to take the multiple-choice "citizenship" test as a prerequisite to registration to vote.

It is further Ordered that in the said twenty-one parishes the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, file with the Clerk of this Court on or before the 15th day of the second month and each succeeding month after the date of this decree a report covering registration during the preceding month, each of said reports to include the following:

(1) The name, address, age, race, and length of residence in the parish of each person who sought to apply for registration during the preceding reporting period;

(2) The action taken by each registrar with respect to each such applicant, that is, whether the applicant was accepted for registration or denied registration. The report shall include the certificate number of each accepted applicant and the specific reason or reasons for rejection of each rejected applicant;

[fol. 109] (3) The total number of persons, shown by race, registered to vote in the parish as of the end of the preceding month.

It is further Ordered that in the said twenty-one parishes, the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, make available to attorneys and agents of the United States, at any or all reasonable times, for inspection and photographing all documents, records and papers relating to the registration of voters and to voting.

This Court retains jurisdiction of this action for the purpose of entering such additional orders as justice may require, including orders of modification upon proof by the defendants that in one or more of the afore-said twenty-one parishes the discriminatory effects of the use of the interpretation test have ceased to exist; or upon proof by the Plaintiff that additional parishes not embraced in this decree have used the understanding or interpretation test to discriminate against Negroes.

The costs of this action are hereby taxed against the defendants.

1964 CHB

Done this 28th day of January, ~~1963~~.

John Minor Wisdom, Circuit Judge, Herbert W. Christenberry, District Judge.

I respectfully DISSENT, for the reasons previously filed herein. I furthermore DISSENT from the order herein requiring the registrars to file monthly reports with the Clerk of Court on the ground that such an order is wholly unwarranted, unauthorized, and constitutes what I consider to be an unwarranted extra-judicial function being performed by this Court. Baton Rouge, La., January 29, 1964.

E. Gordon West, District Judge.

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[fol. 110] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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**Findings of Fact and Conclusions of Law—Filed February 3, 1964**

This matter came on for trial on a prior day, on the merits, on the stipulations of the parties, depositions and exhibits, and the Court after hearing argument of counsel, took time to consider. After due consideration, the Court being fully advised in the premises, now makes the following findings of fact and conclusions of law:

## Findings of Fact

1. Defendants Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are the members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana, Defendant Hugh E. Cutrer, Jr. is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

2. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board [fol. 111] is authorized to remove, at will, any registrar of voters, in the State of Louisiana. It is the duty of the defendant Director, Hugh E. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of voters of the State.

3. Under Louisiana law, registration is, and has been since 1864, a prerequisite to voting in any election.

4. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All of the registrars in Louisiana are white citizens. Under Louisiana law the registrars of voters determine whether each applicant for registration meets the qualifications for registration to vote.

5. Louisiana law provides for periodic registration for all parishes that do not contain a municipal corporation of one hundred thousand population, but gives each parish the

option of adopting permanent registration. Parishes which contain a municipal corporation of 100,000 population must have permanent registration. Under the periodic system all voters in the parish must re-register every four years. The present four-year period commenced January 1, 1961. Under the permanent registration system a voter is not required to re-register unless his name is removed from the voter rolls for his failure to vote in four consecutive years (two years in Orleans Parish) or for any grounds set forth in the laws. At the time of the trial, 42 of the 64 Louisiana [fol. 112] parishes were under the permanent registration system.

6. The understanding and interpretation test as a voter qualification in Louisiana was adopted in 1921 for the purpose of creating a device to discriminate against Negroes.

7. The discriminatory purpose of the understanding and interpretation test was reaffirmed in the 1950's when state officials urged that the test be used to disfranchise Negroes. Until that time the test was not needed and was not used.

8. The interpretation test has consistently been used to discriminate against Negroes.

8.1 In twenty-one parishes where the interpretation test has been used only 8.6 percent of the adult Negroes were registered to vote as of December 31, 1962, whereas 66.1 percent of the adult white persons were then registered to vote. Before the interpretation test was introduced in these parishes, 25,361 Negroes were registered to vote. By August 31, 1963 only 10,351 Negroes were registered. The registration of white persons was not discernibly affected.

8.2 Negroes highly qualified by literacy standards have been denied registration for their failure to interpret a section of the Constitution to the satisfaction of the registrar in the following parishes: Bienville, DeSoto, East Feliciana, Jackson, Morehouse, Ouachita, Plaquemines, Richland, Union and Webster. In these [fol. 113] same parishes there are white voters who have supposedly passed the interpretation test but

whose application cards indicate that they are barely literate.

8.3 The commencement of the use of the interpretation test coupled with the wholesale purging of Negro voters alone effected gross discrimination. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all the requirements of the Louisiana voter qualification laws at the time they registered in that they had failed to take the interpretation test or had failed to complete the application form without errors or omissions. In fact, the challenged Negroes had satisfied all the requirements imposed by the registrar *at the time* they registered. White voters were not purged although their registrations suffered from the same alleged deficiencies as did those of the Negroes who were purged. In the parishes where this occurred Negro registration during a four-year period declined by about 10,000 while the white registration increased by about 2,350. In most parishes where there were purges, Negroes were unable to gain reinstatement in the manner prescribed by Louisiana law, therefore, they were required to re-register and were subjected to the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purges and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita, and Rapides, which have permanent registration. In [fol. 114] all parishes where the understanding and interpretation test was used, it was a significant deterrent to Negro registration.

9. The understanding and interpretation test vests the registrar with uncontrolled discretion to determine subjectively which persons are qualified to vote.

10. The understanding and interpretation test bears no reasonable relationship to literacy or to any qualification for voting within the legitimate interest of the state.

11. The necessary effect of the use of the interpretation test has been to discriminate against Negroes and has reduced drastically the percentage of Negro voters in the parishes where the test has been used.

12. In the twenty-one parishes where the understanding and interpretation test has been used the new "citizenship" test inaugurated in August 1962 makes registration more difficult for all future applicants than it was for white persons prior to the commencement of the use of the test. The use of this new test inevitably discriminates against Negroes since they constitute the unregistered class.

13. At no time have the defendants ordered a reregistration in those parishes where the interpretation test has been used or in any parish since the introduction of the "citizenship" test, nor have the defendants taken any other steps to correct the discriminatory effect of the use of the interpretation test.

[fol. 115] CONCLUSIONS OF LAW

1. This Court has jurisdiction over this action under 42 U. S. C. 1971(d), 28 U. S. C. 1345 and 28 U. S. C. 2281.

2. This action is a proper action to be heard by a district court of three judges.

3. The Attorney General of the United States is authorized to institute this action under 42 U. S. C. 1971(c).

4. The State of Louisiana is properly joined as a defendant.

5. The defendant members of the Board of Registration of the State of Louisiana, and the defendant Hugh E. Cutrer, Jr., as Director and Ex Officio Secretary of said Board, are properly made defendants in this action.

6. Each of the sixty-four registrars of voters in the State of Louisiana is an agent of the defendants.

7. The existence and enforcement of the provisions of Article 8, Section 1 of the Constitution of Louisiana, and of the statutes implementing Article 8, Section 1 of the Con-

stitution of Louisiana in so far as they relate to the understanding and interpretation test as a prerequisite to voting, is in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

8. In Parishes where the understanding and interpretation test has been used and a high percentage of the adult white persons but a low percentage of the adult Negroes have become registered to vote as a result of one or more barriers to Negro registrations, the adoption and use of the so-called "citizenship" test absent a re-registration of all voters violates the Fifteenth Amendment and 42 U. S. C. [fol. 116] 1971(a). No requirement can be imposed which, by reason of previous history of registration, has the inevitable effect of exempting most of the white persons from it and subjecting most of the Negroes to it. A state may not seal the effects of discrimination into the voting system by adopting exclusionary or burdensome registration requirements.

9. Full and adequate relief in this case requires not only a declaration of the invalidity of the understanding and interpretation test and an injunction restraining its enforcement but an order restraining the defendants and the registrars in the twenty-one parishes where the understanding and interpretation test has been used from enforcing as against future applicants for registration the so-called "citizenship" test in the absence of a complete re-registration of all voters or some other action which would fully correct the discriminatory effects of the interpretation test.

New Orleans, Louisiana, January 31, 1964.

John Minor Wisdom, United States Circuit Judge;
Herbert W. Christenberry, United States District Judge.

For the reasons previously assigned by me, and filed in the record hereof, I disagree with the findings and conclusions and therefore dissent therefrom.

Baton Rouge, La., Feb. 10, 1964.

E. Gordon West
*United States District Judge*

[fol. 117] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

---

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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MOTION FOR ORDER TO DISMISS ORIGINAL APPEAL—
Filed March 5, 1964

Defendants move that the Notice of Appeal to the Supreme Court of the United States, filed in this cause on December 27, 1963, be dismissed for the following reasons:

1. That the appeal was untimely filed in that it was noticed and filed before the final decree in this cause, said final decree having subsequently been issued on January 31, 1964.

2. That since said final decree in this cause on January 31, 1964, a proper and timely Notice of Appeal pursuant to 28 U.S.C. Section 1253 has been filed.

Wherefore, movers pray that this Court order the dismissal of the Notice of Appeal filed in this matter on December 27, 1963 as having been untimely filed, reserving unto defendants all of their rights in the premises.

Jack P. F. Gremillion, Attorney General of Louisiana; Carroll Buck, First Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General; Thomas W. McFerrin, Special Counsel.

[fol. 117a] Proof of Service (omitted in printing).

[fol. 118]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

---

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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ORDER DISMISSING NOTICE OF APPEAL FILED BEFORE ENTRY OF FINAL JUDGMENT

Pursuant to foregoing motion, it is ordered that the notice of appeal and appeal filed in this cause by the defendants, State of Louisiana, et al., on December 27, 1963, be and the same is hereby dismissed having been untimely filed prior to the entry of a final judgment in said cause.

Be it further ordered that all of the other rights of defendants in this matter are hereby preserved.

E. Gordon West, U. S. District Judge.

[fol. 119] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action Number 2548

---

UNITED STATES OF AMERICA, Complainants,

v.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed March 5, 1964

I. Notice is hereby given that the State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, the defendants above named, hereby appeal to the Supreme Court of the United States from the final order declaring a portion of Article 8, Section 1(d) of the Constitution of Louisiana (the interpretation test) unconstitutional on January 31, 1964.

This appeal is taken pursuant to 28 U.S.C. Section 1253.

II. The Clerk will please prepare a transcript of record in this cause for the transmission to the Clerk of the Supreme Court and include in said transcript the entire record of the proceedings, including this Notice of Appeal.

III. The following question is presented by this appeal:

1. Whether Article 8, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain

[fol. 120] to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

Jack P. F. Gremillion, Attorney General of Louisiana; Carroll Buck, First Assistant Attorney General; Harry J. Kron, Jr., Assistant Attorney General; Thomas W. McFerrin, Special Counsel.

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[fol. 121] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA: JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, as members of the Board of Registration of the State of Louisiana, and HUGH E. CUTRER, JR., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, Defendants.

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ORDER RECALLING MEMORANDUM DECISION—Filed March 18, 1964

The Memorandum Decision of the Court filed November 27, 1963, is herewith recalled. In its stead the printed opinion attached hereto is filed as the opinion of the Court.

John Minor Wisdom, United States Circuit Judge; Herbert W. Christenberry, United States District Judge.

[fol. 122] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

(See Opposite) ☞

[fol. 123]

**UNITED STATES of America, Plaintiff,**

**v.**

**STATE OF LOUISIANA, Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as Members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and ex officio Secretary of the Board of Registration of the State of Louisiana, Defendants.**

**Civ. A. No. 2548.**

Action under Civil Rights Act by United States against State of Louisiana and certain officials to invalidate state constitutional requirement that applicant for voting registration be able to understand and give a reasonable interpretation of any section of the state or federal Constitution. A three-judge District Court, Wisdom, Circuit Judge, held that the interpretation test was unconstitutional because of its unlawful purpose, operation, and inescapably discriminatory effect, and its use would be enjoined as well as the use of new citizenship test in certain parishes as disclosed in opinion.

Decree accordingly.

West, District Judge, dissented.

**1. States ⇐203**

When official of the state or of a subdivision of state is found to have discriminated against United States citizens in violation of Civil Rights Act, the act or practice is deemed to be that of state which may be joined as a party defendant. 42 U.S.C.A. § 1971(a, c).

**2. States ⇐203**

State was real party at interest and a proper party defendant in action by the United States under Civil Rights Act to invalidate state constitutional requirements for voter registration. 42 U.S.C.A. § 1971(a, c); U.S.C.A.Const. Amend. 11.

**3. Courts ⇐383(1)**

Eleventh Amendment is not applicable to action brought by United States in its sovereign capacity. U.S.C.A.Const. Amend. 11.

**4. Courts ⇐101**

Since suit by United States challenged validity of provisions of state Constitution requiring tests for registration of voters presented substantial constitutional questions, it was a proper case to be heard by three judge court. 42 U.S.C.A. § 1971(a); 28 U.S.C.A. § 2281; LSA-Const. art. 1, § 4; art. 7, § 2.

**5. Elections ⇐18**

States, under federal Constitution, are free to establish voting qualifications but only if the qualifications do not transgress the federal Constitution. U.S.C.A. Const. art. 1, § 2; Amend. 17.

**6. Elections ⇐12**

Fifteenth Amendment imposes on courts unshirkable duty of inquiring into legislative purpose and striking down a fair-seeming law that, "on account of race", is in fact a discriminatory device to deprive Negroes of their vote. U.S.C.A.Const. Amend. 15.

**7. Elections ⇐11**

Fourteenth Amendment prohibits discriminatory voting qualifications primarily by "equal protection" clause. U.S.C.A.Const. Amend. 14.

**8. Elections ⇐19**

Under federal constitutional provision empowering Congress to make or alter times, places and manner of holding elections for Senators and Representatives, congressional authority extends to registration. U.S.C.A.Const. art. 1, § 4.

**9. Elections ⇐4**
**United States ⇐22**

The "appropriate legislation" clauses of the Fourteenth and Fifteenth Amendments are as broad as the constitutional provision giving Congress authority to enact "necessary and proper" legislation.

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U.S.C.A.Const. art. 1, § 8, cl. 18; Amend. 14, § 5; Amend. 15, § 2.

**10. Elections ⇐4, 19**

Totality of implied powers under Supremacy Clause, the "necessary and proper" clause and the "appropriate legislation" clauses of the federal Constitution and amendments thereto grant Congress full authority to enact Civil Rights Act or other appropriate legislation to regulate election, including registration, and to protect integrity of electoral process. U.S.C.A.Const. art. 1, § 4; art. 1, § 8, cl. 18; art. 6; Amend. 14, § 5; Amend. 15, § 2.

**11. Statutes ⇐221**

Rule stating that when meaning of language is plain court is not to resort to evidence in order to raise doubts does not preclude consideration of persuasive evidence if it exists.

**12. Statutes ⇐174**

One begins with words of statute to ascertain its meaning, but one does not end with them.

**13. Constitutional Law ⇐47**

On the one hand, court cannot carry out judicial function of giving effect to legislative intent, or, on the other hand, invalidate law under reasonable construction fair to framers, without first determining purpose of law.

**14. Constitutional Law ⇐211**

Though law itself may be nondiscriminatory on its face and impartial in appearance, if it is applied and administered by public authority with evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within prohibition of federal Constitution.

**15. Elections ⇐12**

Federal Constitution nullifies sophisticated as well as simple-minded modes of discrimination, and hits onerous procedural requirements which effectively handicap exercise of franchise by colored race although abstract right to vote may remain unrestricted as to race.

**16. Evidence ⇐324(1)**

Historical facts of general and public notoriety may be proved by reputation, and that reputation may be established by historical works of known character and accuracy.

**17. Evidence ⇐177**

In action under Civil Rights Act challenging Louisiana constitutional provision, certified copies of newspaper articles of period of Louisiana constitutional convention were admissible to show purpose, as they were the only contemporaneous reports of convention available. LSA–Const. art. 8, § 1(d); 42 U.S.C.A. § 1971 (a).

**18. Elections ⇐12**

Interpretation test of Louisiana Constitution requiring that voter be able to understand and give reasonable interpretation of any section of either federal or state Constitution has same purpose as outlawed grandfather clause and is capable of producing the same effective disfranchisement of Negroes. 42 U.S.C.A. § 1971(a); LSA–Const. art. 8, § 1(d).

**19. Elections ⇐12**

Evidence in action under Civil Rights Act challenging validity of Louisiana constitutional requirement that voters be able to understand and give reasonable interpretation of any section of state or federal Constitution disclosed that registrars discriminated against Negroes as a matter of state policy in pattern based on regular, consistent, predictable unequal application of the test. LSA–R.S.Const. art. 8, § 1(d); 42 U.S.C.A. § 1971(a); U.S.C.A.Const. Amends. 14, 15

**20. Elections ⇐18**

Literacy test bears reasonable relation to governmental objective and, if it does not perpetuate past discrimination, is a permissible requirement for voting qualification.

**21. Elections ⇐18**

Constitutional interpretation test required by Louisiana Constitution for voter qualification bears no relationship to reasonable voting requirements as it is administered and as it was designed to be

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administered. LSA-Const. art. 8, § 1 (d).

**22. Constitutional Law ⇐211, 274**
**Elections ⇐19**

When state Constitution gives law power to registrar to grant, or to withhold registration as he sees fit, Constitution violates both due process and equal protection clauses of Fourteenth Amendment. U.S.C.A.Const. Amend. 14.

**23. Constitutional Law ⇐211, 274**
**Elections ⇐18**

Louisiana constitutional provision requiring, as a voter qualification, that voter be able to understand and interpret any section of federal or state Constitution makes each registrar sole judge, without any guidance of whether to apply test or not and whether applicant is qualified, and violates both the due process and equal protection clauses of the Fourteenth Amendment. LSA-R.S.Const. art. 8, § 1(d); U.S.C.A.Const. Amend. 14.

**24. Elections ⇐12**

Obligation of state to abolish existing system of racial discrimination in voting registration was not met by simply applying new and higher standards to all future applicants, since new tests discriminate against Negroes by subjecting them to standards to which registered applicants, most of whom were white, were not subjected. U.S.C.A.Const. Amend. 14.

**25. Courts ⇐262.4(11)**

In addition to specific remedy provided in Civil Rights Act for protection of electoral process against debasement by discrimination, courts retain undiminished authority to grant suitable equitable relief which will both rectify past inequities now, without delay, and will prevent future inequities. U.S.C.A. Const. Amends. 14, 15; 42 U.S.C.A. § 1971(e).

**26. Courts ⇐262.4(11)**

After declaring Louisiana constitutional interpretation test invalid on ground that its purpose and use was racially discriminatory, court would not require a general re-registration in parishes where interpretation test had been used, but until there was a general re-registration or until discriminatory effect of test had been vitiated to satisfaction of court, use of new citizenship test, promulgated by State Board of Registration, would be enjoined as to persons who had been of voting age and who had required residence prior to date on which they had been exposed to discrimination by interpretation test. LSA-Const. art. 8, § 1(d); LSA-R.S. 18:191; 42 U.S.C.A. § 1971(a).

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Robert F. Kennedy, Burke Marshall, Washington, D. C., Louis Lacour, New Orleans, La., John Doar, Washington, D. C., for plaintiff.

Jack P. F. Gremillion, Carroll Buck, Harry J. Kron, Jr., Baton Rouge, La., Henry Roberts, Jr., Weldon Cousins, John Jackson, New Orleans, La., Thomas W. McFerrin, Baton Rouge, La., for defendants.

OPINION—Filed November 27, 1963

Before WISDOM, Circuit Judge, and CHRISTENBERRY and WEST, District Judges.

WISDOM, Circuit Judge.

A wall stands in Louisiana between registered voters and unregistered, eligible Negro voters. The wall is the State constitutional requirement that an applicant for registration "understand and give a reasonable interpretation of any section" of the Constitutions of Louisiana or of the United States. It is not the only wall of its kind, but since the Supreme Court's demolishment of the white primary, the interpretation test has been the highest, best-guarded, most effective barrier to Negro voting in Louisiana.[1]

1. The following authorities are cited by author and page only:
Carter, The Angry Scar (1959); Caskey, Secession and Reconstruction in Louisiana (1938); 1 Chambers, History of Louisiana (1925); 1 Davis, History of Louisiana (1960); Evans, A Study in the State Government of Louisiana

When a Louisiana citizen seeks to register, the Parish Registrar of Voters may ask the applicant to interpret the provision, "The Supreme Court and the Court of Appeal, and each of the judges * * may also in aid of their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needful writs". Or, the registrar may ask the applicant to interpret a less technical but more difficult provision, constitutionally, such as, "Every person has the natural right to worship God according to the dictates of his own conscience."[2] In giving this test, the registrar selects the constitutional section and he must be satisfied with the explanation. In many parishes the registrar is not easily satisfied with constitutional interpretations from Negro applicants.

We hold: this wall, built to bar Negroes from access to the franchise, must come down. The understanding clause or interpretation test is *not* a literacy requirement. It has no rational relation to measuring the ability of an elector to read and write. It is a test of an elector's ability to interpret the Louisiana and United States Constitutions. Considering this law in its historical setting and considering too the actual operation and inescapable effect of the law, it is evident that the test is a sophisticated scheme to disfranchise Negroes. The test is unconstitutional as written and as administered.

I.

[1–3] The United States brings this action against the State of Louisiana and the directors and members of the Louisiana Board of Registration. In Section 601(b) of the Civil Rights Act Congress specifically authorizes such a suit. When an official of the State or of a subdivision of the State is found to have discriminated against United States citizens in violation of 42 U.S.C.A. § 1971(a), "the act or practice shall also be deemed that of the State and the State may be joined as a party defendant". 42 U.S.C.A. § 1971 (c). See United States v. Alabama, 1960, 362 U.S. 602, 80 S.Ct. 924, 4 L.Ed. 982; United States v. Dogan, 5 Cir. 1963, 314 F.2d 767, 771; Kennedy v. Lynd, 5 Cir., 1962, 306 F.2d 222, 228, cert. den'd 1963, 371 U.S. 952, 83 S.Ct. 507, 9 L.Ed.2d 500; United States v. Atkins, 5 Cir. 1963, 323 F.2d 733. Section 601 is clearly appropriate legislation under the Fifteenth Amendment, to say nothing of other sources of constitutional authority, and in United States v. Fox, E.D.La. 1962, 211 F.Supp. 25, *appeal pending*, the court summarily rejected the State's attack on the constitutionality of the section. See also United States v. Raines, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524.

Independently of Section 601(b), "The obligations which [United States] is under to promote the interests of all and to prevent the wrongdoing of one resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court". In re Debs, 1894, 158 U.S. 564, 15 S.Ct. 900, 39 L.Ed. 1092. When the alleged wrongdoing is based on a State law which is contrary to the superior authority of the United States Constitution, the Nation, as well as the aggrieved individuals, is injured. In such a conflict with the State the power of the Nation to protect itself and to go into its own courts to prevent the States from destroying federally protected

(1910); Ficklen, History of Reconstruction in Louisiana (1910); 4 Fortier, History of Louisiana (1904); Howard, Political Tendencies in Louisiana (1957); Kendall, History of New Orleans (1922); Landry, The Battle of Liberty Place (1955); Lonn, Reconstruction in Louisiana (1918); McGinty, Louisiana Redeemed (1941); Marr, A Historical Review of the Constitutions of Louisiana, 1912-13 Proc.La. Bar Ass'n; Phelps, Louisiana (1905); Powell, History of Louisiana Constitutions, Volume 1, Part 1, Louisiana Law Institute, Projet of a Constitution for the State of Louisiana (1954); Randall, The Civil War and Reconstruction (1953); Shugg, Origins of Class. Struggle in Louisiana (1939); Simkins, History of the South (1953); Woodward, Origins of the New South (1951).

2. Article VII, Section 2 and Article I, Section 4, La.Const. of 1921, LSA.

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rights of citizens derived from the Constitution would seem to be implicit in the Supremacy Clause and inherent in our federal system.

When a private litigant invokes the Fourteenth and Fifteenth Amendments, he must be able to show that State action is involved in the denial of his rights. Anomalously, he cannot sue the State, but must sue agents of the State on the theory that if the act to be enforced is unconstitutional, it is not the act of the State. Ex parte Young, 1908, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714. This necessary fiction to accommodate the Eleventh Amendment provides no basis for any argument that the State cannot be made a party to this action. Here, no private litigant but the Nation itself is attacking the constitutionality of the laws of Louisiana. Louisiana therefore is the real party at interest and a proper party defendant. The Eleventh Amendment has no application to an action brought by the United States in its sovereign capacity. Principality of Monaco v. Mississippi, 1934, 292 U.S. 313, 329, 54 S.Ct. 745, 78 L.Ed. 1282.

The State and its agent, the Board of Registration, have the power and duty to prescribe rules and regulations governing the administration of voter qualification laws in Louisiana.[3] The Board has the power to remove at will any Parish Registrar of Voters.[4]

[4] The court has jurisdiction under 42 U.S.C.A. § 1971, 28 U.S.C.A. § 1345, and 28 U.S.C.A. § 2281. Since the suit challenges the validity of provisions of the State Constitution and certain statutes and presents substantial constitutional questions, it is a proper case to be heard by a three-judge court. 28 U.S.C.A. § 2281.

II.

Under the Constitution of Louisiana, registration, which is a prerequisite to voting in any election, is conducted in each parish by a registrar of voters. La.Const. Art. VIII, § 1(b). Except in Orleans Parish, the registrar is appointed by the police jury or other governing body of the parish. La.Const. Art. VIII, § 18; L.S.A.–R.S. 18:1.[5] Permanent registration is mandatory for parishes containing a municipal corporation of more than 100,000 population, and optional for other parishes. L.S.A.–R.S. 18:231, 18:249.

The Constitution of Louisiana, Article VIII, Section 1(d), as amended in 1960, provides, in part:[6]

"He [a voter] shall be a person of good character and reputation, attached to the principles of the Con-

3. Article VIII, Section 18, La.Const. of 1921, as amended in 1962 and LSA-R.S. 18:191.

4. Article VIII, Section 18, La.Const. of 1921.

5. The registrar of voters for the Parish of Orleans is appointed by the Governor. La.Const. of 1921, Article VIII, Section 18, LSA–R.S. 18:1.

6. As originally adopted in 1921, Article VIII of the Constitution contained two separate interpretation tests. Section 1 (c) provided that persons able to read and write "shall also be able to read any clause in this Constitution, or the Constitution of the United States, *and give a reasonable interpretation thereof.*" Section 1(d) provided that persons unable to read or write could register if "able to *understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar * * *." (Emphasis added.) In 1961, the test in Section 1(c) was deleted entirely as was the opening phrase of Section 1(d), which had made the latter section applicable only to illiterates. The result is that the test originally designed for illiterates is now the test applicable to every registrant, and the literacy requirements of Section 1(c) (filling out the form, etc.) are now applicable to every applicant.

LSA–R.S. 18:35 repeats verbatim the interpretation test as it appeared in Article VIII, Section 1(c) of the Constitution. Although that language has been deleted from the Constitution it remains in the statute. LSA–R.S. 18:36 repeats the test for illiterates that appeared in Article VIII, Section 1(d) of the Constitution before 1960, and which is now applicable to literate registrants as well. Section 36 has not been changed; thus according to the statute, illiterates can register, although under the Constitution it appears that they cannot register.

stitution of the United States and of the State of Louisiana, and shall be *able to understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar, and he must be well disposed to the good order and the happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government." (Emphasis added.)

Title 18, Section 35 of the Louisiana Revised Statutes provides, in part:

"Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof."

The United States attacks the understanding and interpretation requirement as violative of 42 U.S.C.A. § 1971, the Civil Rights Act, and of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

III.

[5] A. There is no license for the loose statement that in our constitutional system the qualification of voters is "exclusively" committed to the States. See, for example, Darby v. Daniel, S.D.Miss. 1958, 168 F.Supp. 170, 176. More accurately, the States, under Article 1, Section 2 of the Constitution and the Seventeenth Amendment, are free to establish voting qualifications—only if the qualifications do not transgress the United States Constitution. Ex parte Clarke, 1879, 100 U.S. 399, 25 L.Ed. 715; Lassiter v. Northampton County Bd. of Elections, 1959, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072. The books are filled with examples of state election laws and practices found to transgress constitutional guaranties. Guinn v. United States, 1915, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340; Lane v. Wilson, 1938, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281; United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Davis v. Schnell, 1949, S.D.Ala., 81 F.Supp. 872, aff'd 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. In *United States v. Classic*, a "Louisiana" case, the Supreme Court, in sustaining federal indictments against state election officials for falsely certifying returns in a *congressional* election, said:

"While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, [citations omitted] this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.' See Ex parte Siebold, 100 U.S. 371 [25 L.Ed. 717]; Ex parte Yarbrough, supra, [110 U.S. 651], 663, 664 [4 S.Ct. 152, 158, 28 L.Ed. 274] * * *."

In ex parte Yarbrough, 1884, 110 U.S. 651, 663, 4 S.Ct. 152, 158, 28 L.Ed. 274, cited in *Classic*, the court stated: "[I]t is not true * * * that electors for members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State."

[6] B. Three provisions of the United States Constitution deny plenary and exclusive power to the States to determine voting requirements and give special protection to a citizen against discrimination in the electoral process. Two are mandates expressly prohibiting discriminatory state action. The third is an affirmative grant of power to the United States.

The first and most important is the Fifteenth Amendment. It is clearly and simply expressed: "The right of citizens of the United States to vote shall not be denied or abridged by the United States

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or by any State *on account* of race, color, or previous condition of servitude". Uncomplicated by phrases freighted with history back to Magna Carta, the Fifteenth Amendment imposes on courts the unshirkable duty of inquiring into legislative purpose and striking down a fair-seeming law that, "on account of race", is in fact a discriminatory device to deprive Negroes of their vote. "The Fifteenth Amendment * * * clearly shows that the right of suffrage was considered to be of supreme importance to the national government, and was not intended to be left within the exclusive control of the States." Ex parte Yarbrough, 1884, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274.

[7] Second, the Fourteenth Amendment, primarily by the "equal protection" clause, prohibits discriminatory voting qualifications. Nixon v. Herndon, 1924, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759. As the Supreme Court stated in another context, however: Although this is "a more explicit safeguard of prohibited unfairness than 'due process of law.' * * * discrimination may be so unjustifiable as to be violative of due process. * * * Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective.". Bolling v. Sharpe, 1954, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884.

[8] Third, Article 1, Section 4 of the Constitution empowers Congress to "make or alter" the "[t]imes, Places and Manner of holding Elections for Senators and Representatives * * * prescribed in each State by the Legislature thereof." [7] Such Congressional authority extends to registration, a phase of the electoral process unknown to the Founding Fathers but today a critical, inseparable part of the electoral process which must necessarily concern the United States, since registration to vote covers voting in federal as well as in state elections.[8] In

7. Art. 1, Section 2, and the Seventeenth Amendment provide that in elections of United States Representatives and Senators "[t]he Electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures". Traditionally, these provisions establish the basis for the proposition that the States alone possess the right to establish qualifications for voting. See Ervin, Literacy Tests for Voters: A Case Study in Federalism, 27 Duke L.Cont.Prob. 481 (1962); Werdegar, The Constitutionality of Federal Legislation to Abolish Literacy Tests, 30 Geo.Wash.L.Rev. 723 (1962) (Werdegar, however, accepts the constitutionality of a congressional standard for literacy); Ritz, Free Elections and the Power of Congress over Voter Qualifications, 49 Am.Bar Jour. 949 (1963); Note, Use of Literacy Tests to Restrict The Right to Vote, 31 Notre Dame L.Rev. 250 (1956); For recent writings in which the authors conclude that a congressional anti-literacy test statute is constitutional, see Van Alystyne, "The Administration's Anti-Literacy Test Bill", 61 Mich.L.Rev. 805 (1963); Maggs and Wallace, Congress and Literacy Tests, 27 Duke L. & Cont. Prob. 510 (1962); Bement, Congressional Authority to Restrict the Use of Literacy Tests, 50 Cal.L.Rev. 265 (1962); Note, The Constitutionality of Federal Anti-Literacy Test Legislation, 46 Minn. L.Rev. 1076 (1962). See also 1 Crosskey, Politics and The Constitution 524–537 (1953).

8. The Civil Rights Commission has unanimously found, to the surprise of none, that the registration procedure is the principal means of disfranchising Negroes. 1961 Civil Rights Report 133–38. A leading authority writes: "In the South registration assumes special importance because of the peculiar regional suffrage qualifications. Registration authorities determine whether applicants meet literacy and understanding tests and thus have functioned as the principal governmental agency for Negro disfranchisement. * * * Commonly the statutes attempt to vest finality of decision in the local registration officials and make appeals from their decisions difficult. In states whose suffrage qualifications involve wide discretion in their application, this finality of decision may re-enforce abuses of discretion. * * * Every local registration officer is a law unto himself in determining the citizen's possession of literacy, understanding, and other qualifications. * * * Louisiana's battery of literacy, understanding, and character requirements * * * for the

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Ex parte Siebold, 1880, 100 U.S. 371, 25 L.Ed. 717 the Supreme Court relied on Article 1, Section 4, in sustaining a statute providing, among other things, for federal registrars, supervisors, in registration offices. See also In re Supervisors of Election, C.C.Ohio 1878, 23 Fed. Cas. 430 (No. 13628). In United States v. Manning, W.D.La.1963, 215 F.Supp. 272, 277, this Court upheld the registration provisions of the Civil Rights Act of 1960: "[N]othing in the language or history of the Tenth Amendment gives the State exclusive sovereignty over the election processes against the Federal government's otherwise constitutional exercise of a power." See McColloch v. Maryland, 1819, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579 and United States v. Darby, 1941, 312 U.S. 100, 124, 61 S.Ct. 451, 85 L.Ed. 609.

[9, 10] The "necessary and proper" clause, Article 1, Section 8, Clause 18, gives Congress full authority to legislate under Article 1, Section 4 (or any other constitutional grant of power); the Fourteenth Amendment, Section 5, specifically grants power to Congress to pass "appropriate legislation" to prevent the denial of equal protection of the laws; the Fifteenth Amendment, Section 2, specifically grants power to Congress to pass "appropriate legislation" to guarantee that the right to vote shall not be abridged on account of race. Ex parte Virginia, 1879, 100 U.S. 339, 25 L.Ed. 676, makes it clear that the "appropriate legislation" clause of the Fourteenth and Fifteenth Amendments is as broad as the "necessary and proper clause", as construed in McCulloch v. Maryland, 1899, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579. The Supremacy Clause, Article VI, subordinates any conflicting state legislation to congressional legislation. The totality of implied powers these sections grant to

white population mean absolutely nothing. They exist only as a bar to Negro registration." Key, Southern Politics 500, 563, 573 (1949). "[The findings of the Civil Rights Commission] and a survey of cases filed under Section 1971 will make even clearer that it is abuses of discretion by registrars, operating under state laws allowing them to test applicants by subjective standards, that is felt to be the problem." Van Alystyne, Anti-Literacy Test Legislation, 61 Mich.L.Rev. 805, 813 (1963). See also McGovney, The American Suffrage Medley 61, 66-73 (1949); Price, The Negro Voter in the South 14-17 (1957).

"Apathy", an unctuous, self-excusing word comes trippingly to the tongue to rationalize the small Negro registration in some of the parishes in Louisiana. There are undoubtedly a number of reasons besides discrimination for the disparity between Negro and white registration. Thus, in a recent study the authors write: "About 28 per cent of the voting age Negroes in the South were registered to vote in 1958, as compared to about 60 per cent of the voting age whites. It would be a gross error to attribute this substantial disparity to legal and political discrimination alone, though unquestionably official discrimination is a factor, for Southern Negroes overwhelmingly possess the historical heritage of low social status, relatively small incomes, and limited educations received in inferior schools. These attributes are associated with low voter turnout among *all* populations, regardless of skin color or region. Moreover, the low status, income and education of many southern whites foster racial prejudice. Thus poverty and ignorance may have a double-barrelled effect on Negro political participation by decreasing the Negroes' motivation and ability to participate while increasing white resistance to their doing so. The low voting rates of Negroes in the South may result to a large extent from these factors, as well as from direct political or legal discrimination by the white community." Mathews and Prothro, Political Factors and Negro Voter Registration in the South, 57 Am. Pol.Sc.Rev. 355 (1963). See also Mathews & Prothro, Social and Economic Factors and Negro Voter Registration in the South, 57 Am.Pol.Sc.Rev. 24, 39-44 (1963). But discriminatory registration laws and practices are the most potent weapons to keep Negro voting down. Price, The Negro and the Ballot in the South (1959); Brown, American Suffrage (1960); Mangum, The Legal Status of the Negro (1960). There was no apathy in the Negro electorate in 1897 when Negro registration equalled white registration in Louisiana. And it is a fair inference that Negro interest in voting, accelerated as it must have been by the civil rights explosion of recent years, is no less in 1963 than it was in 1897.

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Congress are full authority for Congress to enact the Civil Rights Act or other appropriate legislation to regulate elections (including registration) under Article 1, Section 4, and to protect the integrity of the electoral process under the Fourteenth and Fifteenth Amendments. United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Burroughs v. United States, 1934, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484; Ex parte Yarbrough, 1884, 110 U.S. 651, 663, 4 S.Ct. 152, 28 L.Ed. 274.

[11, 12] C. "It is said [more often in the past than in recent years, we interpolate] that when the meaning of language is plain we are not to resort to evidence in order to raise doubts. That is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if its exists". Boston Sand and Gravel Co. v. United States, 1928, 278 U.S. 41, 48, 49 S.Ct. 52, 53, 73 L.Ed. 170 (Holmes, J.) "Of course one begins with the words of a statute to ascertain its meaning, but one does not end with them". Massachusetts Bonding & Ins. Co. v. United States, 1956, 352 U.S. 128, 138, 77 S.Ct. 186, 191, 1 L.Ed.2d 189 (Frankfurter, J., dissenting).

[13] In going beyond the verbal surface of the Louisiana interpretation test, we have sought to eschew inquiry into motive. A federal court's proper respect for the State and the judiciary's due regard for the legislative process, among other reasons, compel this restraint. Candor compels the admission however that in this case the line between the *motive* of the lawmakers and the *purpose* of law is blurred. Blur or not, the court cannot, on the one hand, carry out its judicial function of giving effect to legislative intent, or, on the other hand, invalidate the law under a reasonable construction fair to the framers, without first determining the purpose of the law.

As we see it, *purpose* carries the meaning of Coke's "true reason" for the law in the light of the situation at which it is aimed. Heydon's Case, 3 Co.Rep. 7a, 7b, 76 Eng.Rep. 637 (1584). "[L]aws are not abstract propositions. They are expressions of policy arising out of specific situations and addressed to the attainment of particular ends. * * * And so the bottom problem is: What is below the surface of the words and yet fairly a part of them?" Frankfurter, Some Reflections on the Reading of Statutes, 47 Col.L.Rev. 527, 533 (1947). Purpose then, or the "true reason" for the law, determined as objectively as possible, is an essential part of the context within which a law must be read, if the Court is to appraise fairly the validity of the law. Llewellyn stated this well:

> "If a statute is to make sense, it must be read in the light of some assumed purpose. A statute merely declaring a rule, with no purpose or objective, is nonsense. * * * [When there are] ideas consciously before the draftsmen, the committee, the legislature, * * * talk of 'intent' is reasonably realistic; committee reports, legislative debate, historical knowledge of contemporary thinking or campaigning which points up the evil or the goal can have significance." Llewellyn, The Common Law Tradition 374 (1960).

See also N.A.A.C.P. v. Button, 1963, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405; Jordan v. Hutcheson, 4 Cir. 1963, 323 F.2d 597; Howell, Legislative Motive and Legislative Purpose in the Invalidation of a Civil Rights Statute, 47 Va.L.Rev. 439 (1961).

To Louisianians familiar with the history of their state, it must seem an exercise in futility for the Court to labor the proof of the true reason for the understanding or interpretation test. However, two decisions by three-judge courts in this circuit put a high premium on the Court's ascertaining the true reason for the test. These are Davis v. Schnell, S.D.Ala.1949, 81 F.Supp. 872, aff'd mem. 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1095, and Darby v. Daniel, S.D.Miss. 1958, 168 F.Supp. 170. In *Davis v. Schnell*, the court, in holding the Alabama understanding clause unconstitu-

tional, based its decision, in good part, on the discriminatory purpose of the law as evidenced by its history. The Court, in *Darby v. Daniel*, held the Mississippi understanding clause constitutional and distinguished *Davis v. Schnell*, in part because the plaintiff had failed to show that Mississippi's understanding clause was intended to discriminate against Negroes.

[14] D. It is not unusual for courts to look beyond the face of a statute.

A court may find that a law non-discriminatory on its face is discriminatorily administered. "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution." Yick Wo v. Hopkins, 1886, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220.

The legislative purpose and inevitable effect of a law non-discriminatory on its face may be decisive in determining the unconstitutionality of the law. In Gomillion v. Lightfoot, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110, the Supreme Court had before it an Alabama statute which changed the shape of Tuskeegee "from a square to an uncouth twenty-eight-sided figure." No one has ever doubted that a state legislature has the power to determine municipal boundaries, and a long line of cases, going back to Luther v. Borden, 1849, 7 How. 1, 12 L.Ed. 581, and continuing through Colegrove v. Green, 1946, 328 U.S. 549, 66 S.Ct. 1198, 90 L.Ed. 1432, strongly argued for the conclusion that gerrymandering of election districts was a "political" problem. In holding the law unconstitutional under the Fifteenth Amendment, the Supreme Court based the decision on the statutory objective and the effect of removing from Tuskeegee all save four or five of its 400 Negro voters:

"When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principle has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an 'unconstitutional condition.' What the Court has said in those cases is equally applicable here, viz., that 'Acts generally lawful may become unlawful when done to accomplish an unlawful end, United States v. Reading Co., 226 U.S. 324, 357 [33 S.Ct. 90, 57 L.Ed. 243], and a constitutional power cannot be used by way of condition to attain an unconstitutional result.' Western Union Telegraph Co. v. Foster, 247 U.S. 105, 114 [38 S.Ct. 438, [439], 62 L.Ed. 1006, 1 A.L.R. 1278]." 364 U.S. at 347–348, 81 S.Ct. at 130, 5 L.Ed.2d 110.

In Grosjean v. American Press Co., 1936, 297 U.S. 233, 56 S.Ct. 444, 80 L.Ed. 660, a Louisiana law appeared to be simply a graduated tax on newspaper and theatre advertising. Underneath the surface, as the evidence showed, was the legislative purpose to punish New Orleans newspapers for criticism of Governor Huey Long. With nothing in the statute to show the object of the tax and little in the record to show how it was generated, or how it worked, the Supreme Court went beyond appearances and struck down the tax as in effect an abridgment of First Amendment freedom of the press in violation of the due process clause of the Fourteenth Amendment. Cases too numerous to cite sustain taxation of newspapers. As the Court stated:

"[The tax] is bad because, *in the light of its history and of its present setting*, it is seen to be a deliberate and calculated device in the

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guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees." 297 U.S. at 250, 56 S.Ct. at 449, 80 L.Ed. 660.

[15] In this case, too, we must go into the "history" and "present setting" of a law non-discriminatory on its face. In doing so, we bear in mind a maxim quoted appropriately in this circuit many times in recent years, a maxim from one of the Supreme Court decisions outlawing the Oklahoma grandfather clause: "[The Constitution] nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." Lane v. Wilson, 1939, 307 U.S. 268, 275, 59 S.Ct. 872, 876, 83 L.Ed. 1281.

IV.

To obtain some necessary pages of history, more valuable than volumes of logic, as Holmes has said, we sacrifice brevity.

The Louisiana interpretation test and its current variant, the citizenship test, are best understood as the latest, but perhaps not final, members of a long, logically connected series of socio-political events. These are rooted in the State's historic policy and the dominant white citizens' firm determination to maintain white supremacy in state and local government by denying to Negroes the right to vote.

A. There was, of course, no problem in colonial and territorial times; the *Codes Noir*, from the 1724 Code to Act 33 of the Territorial Legislature of 1806, disfranchised Negroes. Louisiana became a state in 1812. Its first Constitution set the pattern. It limited the franchise to "free white male citizen[s]" who had paid state taxes or purchased land from the United States within six months prior to the election. For thirty-three years this constitutional limitation kept the ballot chiefly in the hands of landowners and merchants, disfranchised two-thirds of the electorate, and favored New Orleans and the southern parishes over the rest of the State. The Constitution of 1845, in many respects a progressive and broadly democratic document, did away with the tax-paying qualification for voters and established universal suffrage for free white males, regardless of wealth and literacy, but limited the vote to citizens of the United States who had resided in Louisiana for two years, and barred the vote to paupers and men in military service. The next Constitution, adopted in 1852, broadened the suffrage qualifications by lowering the state residential requirement to one year, and introduced registration of voters, a progressive step many years in advance of most states. This Constitution required registration for Orleans Parish and made it optional with the legislature for the other parishes.

Thus, from the *Code Noir* of 1724 until 1864, the organic law of the state ordained that only free white males could vote or hold office. This was in a state where there were thousands of free men of color. Many of these were well educated and owned slaves. Except for suffrage, they possessed the civil and legal rights of white citizens.[9]

9. In 1810 New Orleans had 8,001 white persons, 5,727 free persons of color, and 10,824 slaves. *Aggregate Amount of Persons Within the United States in 1810*. (Wash.D.C.1811) p. 82. A battalion of *gens de couleur* fought at the Battle of New Orleans in 1815. Rousseve, The Negro in Louisiana 24–29 (1937). In 1830 there were 16,710 free persons of color and 100,588 slaves in Louisiana. In 1860 Louisiana free men of color owned real property and slaves valued at $50,000,000. Carter, 253. A person of color was presumed to be free. Adelle v. Beauregard, 1810, 1 Mart. (O.S.) 183. Bureau of the Census, Negro Population, 1790–1915 (Wash.1918). In general see Rousseve, The Negro in Louisiana 24–29, 44–45 (1937); Stahl, The Free Negro in Ante-Bellum Louisiana, 25 La.Hist.Quart. 301 (1942); Woodson, Free Negro Heads of Families in the United States in 1830 (1925); Burns, The Black Code, 5 Loyola L.J. 15 (1923). Historically, therefore,

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The Constitutional Convention of 1864 was the first convention in Louisiana to consider Negro suffrage. During the federal occupation of New Orleans, General N. P. Banks, Commander of the Gulf Department, at the direction of President Lincoln, ordered an election of delegates to a constitutional convention. Negroes could not vote for the delegates and were not represented in the Convention. It was attended by delegates from the federally occupied part of the State only: Orleans and eighteen southern parishes which recognized Michael Hahn as Governor. (Henry W. Allen was the Confederate Governor for the rest of the State.) The Constitution of 1864 abolished slavery and provided for free public schools for all children between six and eighteen years, regardless of race, but retained the previous limitation of suffrage to white males. In the early stages of the convention a strong sentiment existed against granting suffrage to the Negroes, and the delegates actually adopted a resolution declaring that the legislature should never pass a law authorizing Negroes to vote.[10] Later in the session, the delegates established a voting qualification, without amending the suffrage ordinance restricting the vote to white males. This was based on an intelligence test, in the interest of permitting Negro suffrage. The resolution in question authorized the legislature "to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the Government, or by intellectual fitness, may be deemed entitled thereto."[11] The word "Negro" was not contained in the resolution as proposed in the Convention or in the ordinance as adopted and, at the time, which was before the adoption of the Civil War Amendments, it was generally thought that Negroes were not citizens. Nonetheless, in the debates over the resolution a number of delegates denounced it as a "nigger resolution", and at least one delegate stalked out of the Convention in protest against Negroes being allowed to vote.[12]

The Constitution of 1864 required the registration of *all* voters in the State. In 1867 the State Board of Registration, making its first report, showed 45,189 white and 84,527 Negro registrants. The male population of voting age in Louisiana in 1860 was 94,711 whites and 92,502 Negroes.[13]

Racial relations in Louisiana deteriorated rapidly. In the fall of 1865 the Democrats in Louisiana adopted resolutions "that this is a Government of white people, made and to be perpetuated for the exclusive benefit of the white race", and declared the Constitution of 1864 a creature of fraud.[14] Radical Republi-

color and not education or anything else has always been determinative of a voter's qualifications in Louisiana.

10. Ficklen, 71; Cashey, 128; Carter, 253–255.

11. President Lincoln, in keeping with his plan for gradual reconstruction and Negro suffrage by stages, had suggested to Governor Hahn for his "private consideration, whether some of the colored people may not be let in; as for instance, the very intelligent and especially those who have fought gallantly in our ranks." See 1 Fortier, Louisiana (Biographical Edition 1914) 485–7; Carter, 253–255. President Lincoln devoted most of his last public address, April 13, 1865, to reconstruction in Louisiana. He urged approval of the new state government as a means of getting the State again into "a proper practical relation with the Union". Congress did not approve it. Evans, 42. The Louisiana Supreme Court held that the Constitution of 1864 and legislation under it was only "provisional in character". Police Jury v. Burthe, 1869, 21 La.Ann. 325.

12. Debates in Convention, 1864, 450; Ficklen, 72.

13. Report of the Board of Registration to the General Assembly of Louisiana (1869). See Woodward, The Burden of Southern History 99 (1961).

The Civil Rights Act of March 2, 1867, 14 Stat. 428, required a registration of all voters of "whatever race, color, or previous condition." No one could be registered, however, "who had participated in the rebellion", and a loyalty oath had to be taken by each registrant.

14. Ficklen, 109.

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cans, refusing to recognise the existing Democratic Government in Louisiana and adopting the Sumner theory that Louisiana was reduced to the status of a territory and as such was entitled to a territorial delegate to Congress, met in convention and called an election for November 6, 1865, to elect a delegate. Henry Clay Warmoth, later Governor, generally regarded in Louisiana histories as a carpetbagger, was elected as the delegate—without opposition.[15] In that election, such as it was, for the first time in the history of the State, Negroes voted freely.

Ominous events progressively increased the friction between the races in the years between the Constitutions of 1864 and 1868. In 1864, relatively peacefully, the Free State Party attempted to establish a government "responsive to loyal white people; the demobilized Confederates, an administration which would restore Louisiana to its ante-bellum condition, except that peonage would replace slavery".[16] By 1865 Confederate veterans had returned in number and in an orderly election that year defeated the Free Staters and gained control of the legislature, mainly by opposing Negro suffrage.[17] The legislature and police juries promptly enacted new Black Codes which reduced the Negro to a "condition which lay between peonage and serfdom"[18] and intensified the activities of Republicans and Northern radicals for Negro suffrage. July 30, 1866, a bloody riot took place in New Orleans at Mechanics Institute. This "massacre" was provoked, it has been said, by "the attempt of some irresponsible white radicals to transfer the franchise from Confederate veterans to freed men".[19] In 1867 the Louisiana legislature rejected the Fourteenth Amendment. "There followed, as night the day, military reconstruction."[20]

In 1868 General Philip H. Sheridan, Commander of the Fifth Military District of Louisiana and Texas, called a constitutional convention to meet the conditions Congress imposed on the former States of the Confederacy: suffrage regardless of race and ratification of the Fourteenth Amendment. In the election of delegates to the convention, Confederate veterans and Democratic officeholders were barred from the polls. This was the first and last Louisiana constitutional convention to which Negro delegates were admitted; the president of the convention and forty-nine of the ninety-eight delegates were Negroes. In the 1868 Constitution Negroes finally received the right to vote and to hold office. This Constitution disfranchised all persons who had participated directly or indirectly in the War[21] on the Confeder-

15. Ficklen, 109–115; 4 Fortier, 94; Bowers. The Tragic Era 363 (Sentry, 1962) See Warmoth's self-serving autobiography, War, Politics, and Reconstruction (1930). Ironically, the election was meaningless, except for its effect on Warmoth's career. Congress did not recognise either Warmoth or the two Louisiana senators.

16. Shugg, 211.

17. Shugg, 211; Powell, 369.

18. Shugg, 213. The most severe laws were enacted by the police juries, not the legislature. Fleming, Documentary History of Reconstruction 279–81 (1906). See also Randall, 724–30.

19. Shugg, 216; McGinty, 6; 1 Kendall, 305–314; Ficklen, 175; Caskey, 219–31. A. P. Dostie, an active white Free Stater and Republican leader, who campaigned for Congress, unsuccessfully, as the "Robespierre of the Revolution", was killed, along with thirty-four Negroes; over 200 were wounded. The *Congressional Report of the Select Committee on the New Orleans Riots* concluded that it was a "massacre" plotted and perpetuated in cold blood. H.R.Rep. 39 Cong. 2d Sess., No. 16 (1866). No historian has endorsed that judgment. Shugg, 217. But see DuBois, Black Reconstruction in America 464 (1935) and Reed, Life of A. P. Dostie 286–330 (1868).

20. Shugg, 218. See also Howard, 78. "The reconstruction of Louisiana prolonged the civil war between North and South and precipitated within the state first a social revolution and then a counter-revolution. Each phase was marked by a new constitution which changed, directly or indirectly, the dispensation of power." Shugg, 196.

21. "The new suffrage law was the most stringent, perhaps, in its defranchising

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ate side and, pouring salt on open wounds, required, as a condition to voting, a certificate from Confederate soldiers and Democratic officeholders that "the late rebellion" was "morally and politically wrong".[22] The Constitution of 1868 desegregated the schools, adopted the bill of rights, rejected a literacy test, and prohibited discrimination in public conveyances and places of public accommodation. This was all "that was needed to strengthen the determination of Southern whites to establish white supremacy, at whatever cost. The Constitution of 1868, therefore, instead of closing the breach between whites and blacks, served only to widen it."[23]

As a result of the disfranchisement of many former Confederate soldiers and the enfranchisement of Negroes, the 1868 election resulted in the election of Warmoth as Governor, and of Oscar J. Dunn, a Negro ex-slave, as Lieutenant Governor. Between 1868 and 1896, a number of Negroes held high office in the State: two congressmen, six high state officials, thirty-two state senators, ninety-five state representatives, and one United States Senator, who was not seated;[24] P. B. S. Pinchback served briefly as Governor.

The years from 1864 to 1876 in Louisiana were years of violence and disorder, notwithstanding the presence of federal troops during these years. In 1873 at Colfax, Grant Parish, fifty-nine Negroes and two white persons were killed.[25] After the Colfax riot additional federal troops were sent to Louisiana and stationed at various points to aid officials in keeping order. Louisiana became an armed camp. In 1874 six white Republican officeholders of Red River Parish were killed, after they had surrendered and had agreed to leave the State.[26] Elections were a farce, since "Governor [Kellogg] appointed the registrars, and through them returned his friends to the legislature"; "politicians bribed legislators for party and parish favors, and business men and corporations bribed the politicians for economic priv-

clauses to be found in the constitutions of all the Southern states." Evans, 45.

22. Article 99, in part, provided: "The following persons shall be prohibited from voting and holding any office: • • • All persons who are estopped from claiming the right of suffrage by abjuring their allegiance to the United States Government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the following: Those who held office civil or military, for one year or more, under the organization styled 'the Confederate States of America;' those who registered themselves as enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the secretary of state, and it shall be published in the official journal." This Article was amended in 1870 to prohibit only those persons from voting or holding office who had been convicted of treason, or of a crime punishable by imprisonment in the penitentiary.

23. Powell, 370.

24. In 1873 the Kellogg legislature elected Pinchback to the United States Senate. After a contest extending over many years the Senate gave him $20,000 for expenses, but refused to seat him. "[E]ducated mulattoes such as Oscar Dunn and P.B.S. Pinchback [were] a type which was the peculiar product of antebellum racial relations in Louisiana." Shugg, 221.

25. Chambers, 675; Simkins, 287; Lonn, 240–45; Howard, 76; Carter, 202–209.

26. Lonn, 265–67; 1 Chambers, 682; Simkins, 287; Howard, 76; Carter, 225; Sen.Exe.Doc., 43 Cong., 2 Sess., No. 17, House Repts., 43 Cong., 2 Sess., No. 261, 773–80.

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ileges".[27] During most of the years between 1866 and 1877 there were two governors and two legislatures. The Republican governors and their elected associates were maintained in office only by the Returning Board and federal troops. Representative white citizens considered it a civic duty[28] to belong first to The Knights of the White Camelia, a secret organization equivalent to the Ku Klux Klan in other states, and, later, to join the White League, a statewide organization which openly advocated white supremacy[29] in a published platform. September 14, 1874, the Crescent City (New Orleans) White League, which was organized militarily, led by influential citizens, successfully fought a pitched battle in New Orleans against 3000 of Kellogg's Negro militia, 1000 Metropolitan Police[30] under General Longstreet, and several hundred federal troops. The

27. Shugg, 224, 226.

28. "The best men of the State were soon enrolled in its [White League] ranks." Phelps, 376. In 1875, when General Sheridan called the leaders of the White League "banditti", the Catholic Archbishop in New Orleans, the Episcopal Bishop of Louisiana, the Methodist Bishop at New Orleans, the leading Jewish Rabbi and the leading Presbyterian Rector in New Orleans promptly came to their defense in a joint public statement. 4 Fortier, 175. Not long after, the white people in New Orleans stepped to the tune of the "March of those Louisiana Banditti" and danced the "People Rights Quick Step" and the "White League Waltz". Landry, 80.

29. "It is impossible to estimate the strength or to exaggerate the importance of an organization like the White League. When the New Orleans *Bulletin*, put its enrollment at fourteen thousand men, 'organized and armed', a North Louisiana paper [Minden Democrat, August 29, 1874] claimed that there were at least ten thousand men who belonged to it in that region." Shugg, 230. According to Chambers, the first organization was formed at Opelousas in St. Landry in April 1874. Carter, at 224, states that it was originated in Winn Parish. Cross (2 Biographical and Historical Memories 57. Goodspeed, 1892) claimed it for Caddo. There were a number of organizations, some very loosely organized, which became White Leagues or were associated with *the* White League formed in New Orleans July 2, 1874. For example, there was The White Man's Club or Caucasian Club, organized in Franklin, in St. Mary's Parish by Judge Alcibiade De Blanc as early as 1867; leagues in Winn and Grant in July 1874; "Bulldoozers" in East Feliciana, West Feliciana, East Baton Rouge, Morehouse, and Ouachita; the Innocents, most of whom were of Italian extraction. The White Leagues were especially strong in Southwest Louisiana, St. Landry, St. Martin, St. Mary, Lafayette, and New Iberia. The New Orleans White League was formed by the same men who had organized the Crescent City Democratic Club in 1868. This was a secret society composed of members of the Chalmette Club, a social club which merged with the Boston Club in 1873. The Crescent City White League, under General Fred N. Ogden, was organized into two regiments of infantry and one regiment of artillery; in the parishes the leagues were often only political clubs. Associated with the Crescent City White League was the First Louisiana Regiment, known as "Louisiana's Own", a secret organization intended to serve as part of Governor McEnery's militia. (The Federal Government recognized William Kellogg and not John McEnery as Governor.) See Landry, 52–68; Lonn, 254–307; 1 Kendall 350–375; 1 Chambers, 679; Phelps, 376; 4 Fortier, 132–62; 1 Fortier, Louisiana (Biographical Ed. 1914) 314, 605–609; Carter, 224–229; 1 Davis, 271; Lestage, The White League and Its Participation in Reconstruction Riots, 18 La.Hist.Quart. 358 (1928); House Repts. 43, Cong., 2 Sess., No. 101, Part ii. 206–7.

Negroes and radical Republicans formed the Loyal League, the Black League (under Caius Caeser Antoine, Negro Lieutenant-Governor), The "Republican Alliances" and other protective organizations, but no organized leagues comparable with the White Leagues. However, in the Loyal League the "strictest discipline was enforced and personal injury, even death, was the penalty for voting a Democratic ticket." Fleming, Documentary History of Reconstruction 350 (1907). 57,300 Negroes were enrolled in 94 clubs, under strict discipline. Ficklen, 186. In 1867 the Union League Clubs of New York and Philadelphia sent organizers into Louisiana to form Union and Liberty Leagues among the Negroes. Landry, 10; Carter, 52, 62; Lonn, 255–57.

30. The Metropolitan Police was a military force equipped with guns and cannon, un-

White League took over complete control of the City, then the Capitol of Louisiana, and established in the Statehouse Acting Governor Penn and, later, Governor McEnery. President Grant came to the rescue with sufficient troops to support Governor Kellogg's regime, and the White Leaguers returned to their homes without incident. Some years later, Liberty Place Monument was erected to the memory of the sixteen members of the White League who were killed. September 14 is still officially celebrated annually in New Orleans with public ceremonies as the day the tide turned in Louisiana against the Negroes, carpetbaggers, and scalawags who had been in control of state and local government.[31]

The Battle at Liberty Place had an important effect on the election of 1876 when the "Redeemers", the White Democrats under Francis T. Nicholls, defeated the Negro Republican candidate, S. B. Packard. Throughout the State, and especially in New Orleans, armed members of the White League policed the election. Governor Nicholls, who ran as the White League's choice but who had also promised Negroes the continued enjoyment of their constitutional privileges, managed to attract enough Negro ballots to win by a substantial, if contested, vote. Governor Kellogg's Returning Board and, later, the Republican Legislature, declared S. B. Packard elected. Nicholls and Packard were each inaugurated. January 9, 1877, the White League numbering 6000, marched on the Cabildo in New Orleans, where Packard's troops were stationed. The troops surrendered. President Grant, unwilling to take sides because of the pending Hayes-Tilden controversy, ordered the status quo preserved. For four months armed White Leaguers patrolled the streets of New Orleans.[32]

Louisiana was the last of the Southern States to be freed from carpetbag government. In April 1877 President Hayes, as part of the Hayes-Tilden compromise, removed federal troops from Louisiana and recognized the Nicholls administration as the legal government of the state.[33] These events foreshadowed the "lily white" primary, marked the emergence of the Democratic party in the south as "the institutionalized incarnation of the will to White Supremacy," [34] and led inexorably to the "grandfather"

der a commission of five, including three Negroes. Originally it had jurisdiction over New Orleans, Jefferson City, and Saint Bernard Parish. Later, the Governor was authorized to use it anywhere in the State. McGinty, 9; Phelps, 306; 1 Chambers 669.

31. "The 14th of September, 1874, though apparently barren of results, was really the blow that broke the fetters imposed upon by the Reconstruction Acts of 1867. On January 9, 1877, the people rose again to achieve the freedom of their State, and the chains, half-sundered in 1874, fell to the ground." 4 Fortier, 162. "The Battle of Liberty Place in 1874 changed the tide of opinion, brought the end of Reconstruction in the South, and started the Southern people on their way to the great prosperity which they now enjoy." Landry, 193. These opinions are typical of the views of all the orthodox Louisiana historians.

32. Landry, 190–192.

33. Woodward, 23–30; Haworth, The Hayes-Tilden Disputed Election of 1876 (1906); Woodward, Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction (1951); Carter, 326–341; Simkins, op. cit. 293–94; 4 Fortier, 191; Randall, 876 (1953); Lonn, 495–523 (1918); McGinty, 55–151. The Commission appointed by President Hayes to investigate the Nicholls-Packard election, declared Nicholls, the Democratic candidate, legally elected, but it gave the electoral votes to Hayes, instead of to Tilden. The Nicholls legislature, which the President's commission recognized, elected Henry M. Spofford to the United States Senate; the unrecognized Packard legislature elected William P. Kellogg. The Senate refused to seat Spofford and seated Kellogg. President Hayes pensioned off Packard as a United States Consul.

34. Cash, The Mind of the South 128 (1941). For an appraisal of these events which most white Louisianians would regard as unorthodox, see Howard, 77–83. For example: "[T]he Negro became the object of white terror based primarily on political grounds. The inescapable con-

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clause, the understanding or interpretation test, and the tricky registration application form as techniques to avoid another Reconstruction.

In 1879, with the State firmly in the control of the White League, another Constitution was adopted. "Its chief objectives apparently, were to put 'white supremacy' back on a firm foundation and bring to an end the oppressive taxation, excessive public spending, and corrupt administration that had plagued the people for a decade." [35] This was before the understanding clause was invented. The solution for the Negro problem devised by the Convention was to transfer powers to the Governor from the legislature and the police juries (county commissioners).[36] The public accommodations section and most of the provisions in the 1868 Constitution favorable to Negroes were eliminated, but the Constitution of 1879 did not restrict the Negro's right to vote. This may have been because of fear of another federal intervention or because the Negro-White unification movement under General Beauregard had collapsed.[37] Article 188 of that Constitution provided, "No qualification of any kind for suffrage or office, nor any restraint upon the same, on account of race, color or previous condition shall be made by law."

In the eighties and until 1898 Negroes in Louisiana continued to vote and to have their vote solicited by all parties. This is not surprising. In 1888 there were 127,923 Negro voters and 126,884 white voters on the registration rolls in Louisiana; [38] the population of the state was about fifty per cent Negro.

In the election of 1892, the Louisiana Lottery issue split both parties. Murphy J. Foster, a Democrat, was the successful candidate for governor, but the Negro vote was a decisive factor in Governor Foster's favor in many parishes, a disquieting circumstance necessarily regarded as a mixed blessing. In a four-man race, the Democrats polled only 79,388 votes against a total of 98,647 cast for the Republicans and the newly organized people's Populist party.[39] The next election, in 1896, was the turning point that led directly to the disfranchisement of the Negro in Louisiana. In that election, Governor Foster, running for re-election, defeated John N. Pharr, the choice of a Fusion party of "National" (Lily white) Republicans, Regular (Radi-

clusion is that in 1878 the Republican party was not given a free ballot in a fair election. * * * A planter—merchant elite re-established itself in the political sun, but it could stay there only through gaining support of farmer groups and a portion of the Negro groups, or through intimidation of either or both." Howard, 82.

35. Powell, 386; McGinty, 152-180.

36. "The South had not yet solved the problem of disfranchising the illiterate, ignorant Negro by organic law nonviolative of the Fourteenth and Fifteenth Amendments to the United States Constitution. Until such a solution was arrived at, other means had to be employed—intimidation, permission, subtle suggestion that to vote the white man's ticket was most inconducive to the black man's health, call it what you will. * * * [The Constitution of 1879 partly met] the threat of a possible return to black domination * * * [by] the constitutional provision which lodged in the hands of the chief executive of the state extraordinary appointive powers. The Governor named all local and state officials whose election by popular suffrage was not specifically enjoined by the Constitution. He appointed the members of the police jury of every parish, a select body of representative citizens upon whom developed the enacting of laws and ordinances affecting parish affairs, as well as the determining of just what the rate of local taxation would be to meet parish needs." 1 Chambers, 697. See also Evans, 53, Woodward, 54.

37. General P. G. T. Beauregard was chairman of a biracial committee pledged to obtain political equality for Negroes, desegregated public schools, and desegregated places of public accommodation. Williams, The Louisiana Unification Movement of 1873, 2 Jour.Sou.Hist. 349 (1945).

38. Statement of Registered Voters in the State of Louisiana.

39. Report of the Secretary of State 1902, 562.

cal) Republicans, Populists, and sugar-growers dissatisfied with low tariffs of 1894. It was a bitterly fought election.[40] "The main issue * * * was the problem of Negro suffrage."[41] Again the Negro vote was decisive in many parishes. Again, Foster, who ran on a "white supremacy" platform, had his heaviest majority in parishes where the Negro registration was the heaviest.[42]

At this point, the handwriting on the wall could be read as easily in Louisiana as it was read earlier in Mississippi: something had to be done about Negro Suffrage. Local issues or national issues could split the Democratic party wide open, giving the Negroes the balance of power. And the political ecology of Louisiana made factionalism inevitable. In Louisiana, as in Mississippi and Alabama, there were, and still are, fundamental social and economic differences between the areas controlled by a plantation economy and the areas controlled by a small farm economy. Two potent

40. "There are those who maintain to this day that John N. Pharr * * * was really elected. * * * The near success [of the Fusion party] * * * shaped [the] future course [of the Democrats] to the end that elections in Louisiana should be determined by the white vote and not black." 1 Chambers, 698. "The contest over the Governorship in 1896 showed that until the Negro vote was eliminated from the electorate, there was always some danger of the election of a Republican Governor, and made apparent to the Democratic leaders the advisability of a new Constitution." Marr, 229, 246. Judge Robert H. Marr was chairman of the Committee of Seventy, which sponsored the "Convention of the White People [Leagues] of Louisiana" in Baton Rouge, August 24, 1874, and constituted an inner circle of the White League. He called the meeting of the White League to order at Henry Clay Statue on Canal Street just before the Battle of Liberty Place.

41. Howard, p. 99. See also Havard, Herbele, and Howard, The Louisiana Elections of 1960, 23–25 (1963): 1 Fortier, Louisiana (Biographical Edition 1914) 427–432. The legislature had proposed an amendment to the Constitution adding literacy and property requirements for voting. The Fusionists were against it. See Uzee, The Republican Party in the Louisiana Election of 1896, 2 La.Hist. 332 (1961).

42. Pharr carried all but a few of the white parishes in the State; Foster carried 23 of the 27 parishes in which more Negroes than whites were registered to vote. "The Fusionists were sure the Democrats had stuffed the ballot boxes and insured victory." Howard, 99. Every election commissioner in the parishes with Negro majorities was a trusted Foster-Democrat. "The Ring opened up a special office in New Orleans to purchase Negro votes at $12.50 per vote." Uzee, 332. In many parishes the number of votes exceeded the number of registered voters. Uzee, 339. The editor of the New Orleans Times-Democrat was uneasy: "It is true that we win these elections but at a heavy cost, and by the use of methods repugnant to our idea of political honesty and which must, in times, demoralize the people of Louisiana." Times-Democrat, January 11, 1898. Woodward comments: "The remedy, declared the reformers, was the disfranchisement of the Negro. * * * 'The remedy suggested here is to punish the man who has been injured * * * to prevent the Democratic election officials from stealing their votes'." Woodward, 327.

As Woodward, Shugg, Howard, Key, Heard and many others have pointed out, the struggle was not only for white supremacy, but a struggle as to "*which whites* should be supreme." Howard, 105. In Louisiana the predominantly white parishes were fighting, not only Negro domination, but also oligarchic domination of the State by New Orleans and the southern parishes. Pharr's greatest strength lay in the hill-farmer parishes of Northern Louisiana, the Florida parishes, and the sugar-bowl. Foster received 90 per cent of the vote in the delta parishes, from Madison south to West Feliciana, and in the upper Red River parishes of Caddo and Bossier. A similar situation existed in Mississippi and Alabama where the cleavage was sharp between the counties in the Black Belt and those in the Hill country. See Howard, 82–105; Havard, Herbele, and Howard, The Louisiana Elections of 1960, 21–25 (1963); Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). Uzee, The Republican Party in the Louisiana Election of 1896, 2 La. Hist. 332 (1961). See also 1 Fortier, History of Louisiana (Biographical Edition 1914) 429–432.

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additional facts of political life aggravate divisiveness in Louisiana: (1) North Louisiana is solidly Protestant, South Louisiana predominantly Catholic; (2) New Orleans and the rest of the State are like oil and water. See Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). By 1898, the moral as well as dollar-and-cents costs of buying victory at the polls were finally more than the purchasers were willing to pay.

Promptly after the important election of 1896, Governor Foster requested the Legislature to call a constitutional convention. Former Governor Nicholls, then Chief Justice of the Supreme Court of Louisiana, called the Convention to order February 8, 1898. Judge Thomas J. Semmes, Chairman of the Judiciary Committee of the Convention and a former president of the American Bar Association, described the purpose of the Convention: "We [meet] here to establish the supremacy of the white race, and the white race constitutes the Democratic party of this State." [43] The Convention of 1898 "interpreted its mandate from the 'people' to be, to disfranchise as many Negroes and as few whites as possible." [44]

The understanding clause, invented by Mississippi a few years before as an alternative to a literacy test, was strongly advocated by many of the delegates.[45] After considerable debate, however, "per-

43. Journal of the Constitutional Convention of 1898, 374.

44. J. A. Snider (Bossier) summed up the Convention's policy, as one to "disfranchise as many Negroes and as few whites as possible". New Orleans Times-Democrat, Feb. 8, 1898. A year later, Thomas J. Kernan, one of the distinguished members of the Convention, used these identical words to describe the object of the Convention. Kernan, The Constitutional Convention of 1898, Proc.La.Bar Ass'n for 1899, at p. 51. Conscious of the moral dilemma and the paradox, Kernan also observed: "By the irony of fate, this ultra conservative convention was called upon as its first chief duty to do the most radical thing known to legislation; to falsify the accepted teaching of history and roll back the wheels of political revolution without bloodshed; to take away the ballot from almost, if not quite, a majority of the voters of the State." Ibid. at 56. "Ernest B. Kruttchnitt * * * on taking the chair, stated that the great purpose for which the Convention had been called together was * * * the elimination of the Negro vote, while granting the suffrage to every white man in the State". Marr, 219. There is a brief but excellent account of the convention in Eaton, The Suffrage Clause of the New Louisiana Constitution, 13 Harv.L.Rev. 279 (1899). See also 3 Fortier, Louisiana (Biographical Ed. 1914) 262–264.

45. There was never any doubt as to the purpose of the "understanding clause" in any of the Southern States which adopted it. Judge S. S. Calhoun, President of the Mississippi Convention of 1890, wrote, in regard to the Convention: "There was revolution. There is no manhood nor honesty in attempting to disguise. Our people said to the miserable hucksters and their ignorant Negro dupes, 'You shall rule a great State no longer. * * * Come down, get out!' And they did come down and get out and the white people of Mississippi took charge of her polity." Calhoun, The Causes and Events that Led to the Calling of the Constitutional Convention of 1890, 6 Miss.Hist.Soc.Pub. 105 (1902). "Of two ills Mississippi chose the lesser. She has exchanged an organic malady for a functional disorder. The Convention substitutes a desiccated for a diseased electorate. * * * Southern civilization no longer requires evil acts to secure good government." McNeilly, The Constitutional Convention of 1890, 6 Miss.Hist. Soc.Pub. 136–38 (1902). Senator J. Z. George is usually considered as the originator or chief sponsor of the clause. The delegate from Grenada was not enthusiastic about the contribution of Senator J. Z. George to the electoral process: "The mephitic vapour that arises from the section actually stinks in the nostrils of an honest man and makes one feel like stuffing the registration books." The press of the state was filled with editorials and letters which dubbed the provision an "odious section", "a shameless fraud", "a disgraceful absurdity", "the mongrel hotchpotch suffrage scheme", or "the fly-blown section". Wharton, The Negro in Mississippi 213 (1947). See also 2 Rowland, Mississippi, The Heart of the South 246–255 (1925). In the South Carolina Convention, the next to adopt the understanding clause, Ben Tillman

*suaded that the understanding clause was 'based on fraud'*, the Louisiana Convention rejected it and invented the 'grandfather clause' ".[46]

dealt with the problem with characteristic candor: "Some have said there is fraud in this understanding clause. Some poisons in small doses are very salutary and valuable medicines. * * * *The [registration] officer is responsible to his conscience and his God; he is responsible to nobody else.* There is no particle of fraud *or illegality* in it. *It is just showing partiality, perhaps,* (laughter) *or discriminating. Ah; you grin.*" (Emphasis added.) Journal of the Constitutional Convention of the State of South Carolina, 469 (1895). In the Virginia Convention Senator Carter Glass was equally outspoken: "*Discrimination!* Why that is precisely what we propose; that *exactly is what this convention was elected for*". Proceedings and Debates of the Constitutional Convention, 1901–02, II, 3076. See Woodward, 332–35. See also Monnet, The Latest Phase of Negro Disfranchisement, 26 Harv.L.Rev. 42 (1912); Smith, Negro Suffrage in the South, Studies in Southern History and Politics 231–56 (1914); Porter, A History of Suffrage in the United States, 208–18 (1918).

46. Woodward, 332. Frank P. Stubbs, a delegate from Ouachita, was quoted as saying: "To adopt the understanding clause would be 'to send word' to the registrars to do what you will not do yourself. We are told that it is more honorable to permit highway robbery than to rob a hen roost. I see no honor in either". New Orleans Times-Democrat, March 20, 1898. Mr. Phanor Breazeale of Nachitoches opposed the plan as a certain instrument of fraud. Judge A. V. Coco of Avoyelles wrote to the Picayune, "The very reason of this Convention is, in morals, dishonest, for its purposes are to do in an indirect way what we cannot do directly. * * * This unconstitutional measure we propose to enact through constitutional and honest means. Well, I say it cannot be done through constitutional and honest means." Eaton, The Suffrage Clause in the New Louisiana Constitution 13 Harv. L.Rev. 279, 290 (1899).

In explaining his vote against the grandfather clause, Dr. H. Dickson Bruns, whose father wrote the appeal to the "Citizens of New Orleans" which precipitated the Battle of Liberty Place, voted against Section 5 because he considered it an "unAmerican doctrine that a man shall be a voter because his father or grandfather once possessed that right * * * [It] violates justice, law and morals, and I have faith that such violation inexorably evolves in the fulness of time its own punishment upon the violator, be it a man, a party, or a State". Journal, Constitutional Convention of 1898, 142. William O. Hart, an eminent lawyer, voted against it because he "consider[ed] Section 5 in conflict with the Constitution of the United States". Id. 144 W. H. Wise agreed: "Section 5 is unconstitutional, and vicious, and undemocratic in principle." Id. 147. Charles T. Soniat voted against it because it was "glaringly unconstitutional, undemocratic, and unAmerican. * * * You are discriminating against certain colored citizens in the very teeth of the Constitut[ion] * * * this law, conceived in secret and born in the still hours of last night * * * will breed discord and strife, and will be in a few years execrated by the very parties who now support it on its final passage." Id. 141. Judge Coco thought that the section was a "weak and transparent subterfuge and unmanly evasion of the Constitution of the United States". Id. 146.

The press was highly critical. The New Orleans Times-Democrat, March 8, 1898, reported that "indignation over the suffrage ordinance is limited to no section of the State". Again, March 29, 1898, "North Louisiana joins hands with Central and Southern Louisiana in protest." Part of this protest was based on the fear that too many white persons would also be disfranchised. The Times-Democrat for February 8, 26, 27, 1898 reported that the understanding clause was rejected in favor of the grandfather clause, because most of the delegates feared that it would place too much power in the hands of the registrar.

Both Louisiana Senators, McEnery and Caffrey, expressed the opinion that the Louisiana suffrage provision was unconstitutional. Porter, History of Suffrage in the United States, 213 (1918):

"Most of the discussions of the Convention seemed to have been about Section 5 of Article 197 [the grandfather clause]. Many of the gentlemen expressed the view that that section was in conflict with the Amendments of the Federal Constitution. Mr. Semmes, in voting for the suffrage ordinance, said * * * 'that he had no scruples of conscience as to its morality. * * * In view of the fact that these amendments were never constitutionally adopted, it is hard to understand what ques-

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Under Article 197 of the 1898 Constitution,[47] in order to register, an applicant had to meet educational and property qualifications—unless exempted by the "grandfather" clause. The educational test required the applicant to be able to read and write and demonstrate the ability to do so by filling out the application form without assistance. The property test required the applicant to own property assessed at $300 and to have paid the taxes due on the property.[48] The grandfather clause exempted persons entitled to vote on or before January 1, 1867, or the son or grandson of such person.[49] A similar provision exempted immigrants who came to this country after January 1, 1867. At the time, forty per cent of the registered voters in Louisiana were illiterate and most of the Negroes could not meet the property requirement. The result was disfranchisement of almost all of the Negro voters and of some twenty to thirty thousand white voters.[50] Alcée Fortier, one of Louisiana's most respected historians, writing in 1904, succinctly stated the legislative purpose of the grandfather clause:

> "The purpose of this section, known as the 'Grandfather Clause' was to allow many honorable and intelligent but illiterate white men to retain the right of suffrage, and the purpose of the educational or property qualification was to disfranchise the ignorant negroes who had been a menace to the civilization of the State since the adoption of the Fifteenth Amendment to the Constitution of the United States." 4 Fortier, History of Louisiana 235.

On accepting the chair as President of the Convention, Ernest B. Kruttschnitt, a leading lawyer in New Orleans and a veteran of the White League, did not

tion of conscience is involved in the advocacy of measures by means of which the operation of those two amendments may be defeated. The sole question is what is the surest and most practicable way to bring about that defeat.' Mr. Semmes' prophesy [that it would withstand constitutional attack] has been fully justified by the results. The suffrage provisions of the Constitution of 1898 have worked well. Under the authority of the Primary Election Law, to annex additional qualifications for party suffrage, the Democratic State Central Committee has added the qualification 'white' and thus politically wiped out the Negro". Marr, 245.

47. Section 5 of Article 197 provides in part: "No male person who was on January 1st, 1867, or at any date prior thereto, entitled to vote under the Constitution or statutes of any State of the United States, wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of this Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have resided in this State for five years next preceding the date at which he shall apply for registration, and shall have registered in accordance with the terms of this article prior to September 1, 1898, and no person shall be entitled to register under this section after said date."

48. Negro males in Louisiana over twenty-one who owned property in excess of $300, and were thus qualified to register, numbered 5900. Report of the Secretary of State 559 (1902).

The disfranchising character of the complicated application form was also of great importance. This form has a number of traps for the unwary. One requirement is that the applicant state his age in years, months, and days. "It was estimated that not more than ten per cent of negroes of voting age would be able to satisfactorily pass this test." Evans, 56. See Kernan, 57–60.

49. Persons who qualified under this section before September 1, 1898, when it expired, were: 37,877 whites and 111 Negroes. Report of the Secretary of State 558 (1902). Later, registration under the grandfather clause was extended to September 1, 1913. Act 24 of 1912.

50. "One fourth of the white voters had been disfranchised or discouraged from registering. Almost 40,000 less white people had registered in 1900 than in 1897." Howard, 103.

mince his words: "We have here no political antagonism and I am called upon to preside over what is little more than a family meeting of the Democratic Party of the State of Louisiana. * * * We are all aware that this Convention has been called * * * principally to deal with one question * * *. to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter century degraded our politics." [51] The Convention voted that no ordinance should be considered until the report of the Committee on Suffrage and Election was finally acted upon by the Convention. Near the end of the Convention, President Kruttchnitt announced:

> "We have not been free; we have not drafted the exact Constitution we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of the State, Universal White Manhood Suffrage, and the exclusion from the suffrage of every man with a trade of African blood in his veins. * * * What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting, and isn't that what we came here for?" [52]

In his message to the legislature, Governor Foster was able to say:

> "The white supremacy for which we have so long struggled at the cost of so much precious blood and treasure, is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument, and that, too, by no subterfuge or other evasions. With this great principle thus firmly imbedded in the Constitution, and honestly enforced, there need be no longer any fear as to the honesty and purity of our future elections." [53]

Following the example of Mississippi, with respect to its 1890 Constitution, Louisiana did not submit the 1898 Constitution to the vote of the people.[54]

To make the disfranchisement effective, the legislature directed a complete new registration of all voters. Registration rolls before and after adoption of the Constitution show the prompt effect the grandfather clause had on Negro voters.

| | January 1, 1897 | March 17, 1900 |
|---|---|---|
| Number of Negro Voters | 130,344 | 5,320 |
| Number of White Voters | 164,088 | 125,437 |

The drop in Negro registration continued, so that by 1910 only 730 or less than 0.5 per cent of the adult male Negroes were registered. In the sixty parishes then in existence, there were no Negroes registered in twenty-seven parishes and only one Negro registered in each of another nine parishes. Only ten parishes had more than ten Negro registered voters each. By 1918, when there were sixty-four parishes, thirty-seven parishes had no Negroes registered. Eight other parishes had only a single Negro on the voter registration rolls.[55] "With the adoption of the Constitution of 1898, Louisiana became in fact and

51. Journal of the Constitutional Convention, 9.

52. Journal of the Constitutional Convention, 380.

53. La. Senate Journ. 1898, 33-35.

54. The Constitution of 1898 was called under an act of the Legislature which was voted upon by the people, who, in so voting, agreed that the Convention might declare the Constitution adopted without referring it back again to the people. "This act * * * is a curiosity among the acts calling constitutional conventions." Eaton, The Suffrage Clause in the New Constitution of Louisiana, 13 Harv.L.Rev. 279 (1899). The "only constitutions wholly submitted to the people in a proper election were those in 1845 and 1852." Hart, The Quar. Constitutions of Louisiana, 3 La. Hist. 750, 782 (1921). The Constitution of 1879 was submitted to the people for ratification or rejection.

55. These figures and most of the others used in this opinion are taken from Reports of the Secretary of State, compiled

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practice a white man's state as far as its politics went." [56]

The 1913 Constitution did not change the suffrage provisions of the 1898 Constitution.

In 1915, in *Guinn v. United States*, the Supreme Court declared the Oklahoma grandfather clause unconstitutional. Chief Justice Edward Douglass White, of Louisiana, who fought with "Louisiana's Own" at the Battle of Liberty Place [57] and was the campaign manager for Governor Nicholls in 1888, wrote the opinion.

Against this background, a constitutional convention was called in 1921. Although there were several good reasons for Louisiana to revise its constitution, it was well understood, as reported in the New Orleans Times-Picayune: "Revision of the suffrage provision [was] necessary because the United States Supreme Court [had] declared the famous 'grandfather clause' invalid. * * * Already several substitutes have been proposed, among them the 'understanding clause' from Mississippi * * * and the plan of Ex-Governor R. G. Pleasant to confine the right of suffrage to those who inhabited the earth North of the twentieth degree of North latitude prior to October 12, 1492, when Columbus discovered America. The purpose of his plan is to shut out the Negro." [58]

[16, 17] We are handicapped in studying the legislative history of the Constitution of 1921 because, at the request of Ruffin G. Pleasant, the former Governor, who was Chairman of the Committee on Suffrage and Elections, the Committee met in secrecy and no minutes were kept of any discussion or debate. The newspaper accounts of the proceedings, the next best evidence, [59] quote Gov-

as "Statements of Registered Voters in the State of Louisiana".

The voters qualified to register in 1900 were as follows:

| | White | Negro |
|---|---|---|
| Under the "educational" qualification | 86,157 | 4,227 |
| Under the "property" qualification | 10,793 | 916 |
| Under the "grandfather" clause | 22,139 | 0 |

There should be a mental adjustment for all comparative registration figures in Louisiana to take into account the downward trend of the Negro population in the State. For example, in 1900 Negroes made up about 50 per cent of the population. Today, they make up about 30 per cent of the population of Louisiana.

56. 1 Chambers, 699.

57. Landry, 130, 233.

58. Times-Picayune, February 27, 1921. As early as 1916, in a comment in the first issue of the Southern Law Quarterly, now the Tulane Law Review, M. B. Redman discussed the interpretation test (Mississippi's understanding clause) as a constitutional equivalent of the Louisiana grandfather clause. 1 Sou.L.Quart. 46, 47–48 (1916).

59. "Historical facts of general and public notoriety may indeed be proved by reputation, and that reputation may be established by historical words of known character and accuracy." Morris v. Harmer's Heirs' Lessee, 1833, 7 Pet. 553, 578, 8 L.Ed. 781. (J. Story)

The United States introduced a large number of certified copies of newspaper articles of the period. The newspaper articles are admissible to show purpose. They are the only contemporaneous reports of the 1921 convention available, except for a few legal writings, because of the Convention's decision to hold secret, unreported meetings and discussions on suffrage. In Hall v. St. Helena Parish School Board, E.D.La.1961, 197 F.Supp. 649, aff'd 1961, 368 U.S. 515, 82 S.Ct. 529, 7 L.Ed.2d 531, this Court turned to newspaper accounts in support of its finding of a racially discriminatory purpose in the adoption of a local option school closing law. In that case we noted: "The sponsors of this legislation, in their public statements, if not in the Act itself, have spelled out its real purpose" (197 F.Supp. 652). In an accompanying footnote, we said: "In Louisiana, as in most states, the legislative debates, committee proceedings, and committee reports are not recorded officially. Going to the next best records, newspapers, we find in the record of this case a mass of contemporary newspaper articles, filed by the plaintiffs and by amicus curiae, bearing on the legislative history of Act 2 and its related measures. Affidavits from the authors of the articles attest their accuracy. In all instances they are part of the official records. Their reliability is evidenced by their sub-

ernor Pleasant as saying that this was because "there might be one subject coming up for discussion which we would not care to have preserved. * * *"[60] Suffrage was "a delicate question" and the members preferred "not to debate it in the open."[61] No one failed to hear and heed the thunder of the silence.

The Committee first considered and rejected Governor Pleasant's "Christopher Columbus" proposal.[62] The plan finally agreed upon was the plan rejected in 1898 because of its "immorality"—Mississippi's understanding clause, the interpretation test. In reporting the proposal, newspapers of the period consistently referred to it as the Mississippi "understanding" clause, quoting Mr. C. E. Hardin of Vernon Parish and Judge Phillip S. Pugh of Arcadia Parish,[63] and described it as a "substitute" or "replacement" for the illegal grandfather clause.[64] For example, a news report of the Times-Picayune characterized the plan as, "An ordinance designed to plug the hole shot through the suffrage provision when the United States Supreme Court declared the famous 'grandfather' clause invalid". The Negro community had no trouble recognizing the purpose of the test. A large delegation of Negro leaders from New Orleans, Baton Rouge, Shreveport, and the parishes appeared before the committee to plead in vain for the franchise, and for more educational facilities.[65] "The Convention [also] placed the power to remove any registrar in the State in the hands of an *ex officio* board of registration composed of the governor, lieutenant governor, and speaker, a majority of whom were more likely to be white men. Should any registrar show a tendency to administer the new registration tests too liberally, or otherwise to conduct his office in a manner displeasing to the administration, the state board could remove him at will."[66]

When the Committee on Suffrage and Elections finally agreed on the interpretation test, the Baton Rouge Times accurately reported:

> "The grandfather clause is eliminated and there is substituted an understanding and good character clause. * * *"[67]

As Professor Powell said in his study of Louisiana constitutions for the Louisiana Law Institute, "In justice to the Convention, it must be said that even its bitterest critics could not deny that the Negroes were almost completely disfranchised."[68]

stantial agreement." See Dallas County v. Commercial Union Assurance Co., 5 Cir. 1961, 286 F.2d 388, involving private litigation. See also Davis v. Schnell, S.D. Ala.1949, 81 F.Supp. 872, aff'd 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. Cf. Grosjean v. American Press Co., 1936, 297 U.S. 233, 56 S.Ct. 444, 80 L.Ed. 660.

60. New Orleans Times-Picayune, April 3, 1921, p. 1; New Orleans States, March 3, 1921, p. 2.

61. New Orleans Times-Picayune, March 27, 1921, p. 10.

62. New Orleans Times-Picayune, February 27, 1921, p. 8; Looney, Suffrage in the Louisiana Constitution of 1921, 6 Loyola L.Jour. 75, 87 (1925).

63. Times-Picayune, March 14, 1921. The Times-Picayune of March 22, 1921 reported that Judge Pugh "holds that these requirements or qualifications are judicially bombproof."

64. Baton Rouge State Times, May 9, 1921, p. 7; New Orleans Times-Picayune, March 14, 27, 1921, p. 1; Looney, 79. "With regard to suffrage, the principal feature * * * was the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Evans, 68.

65. New Orleans States, March 31, 1921, p. 6. As in 1898, when Booker T. Washington pleaded unsuccessfully for the Convention not to disfranchise the Negroes, Bishop R. E. Jones, Dr. J. S. Clark, President of Southern University, John G. Lewis, B. V. Baranco, and Walter L. Cohen had no quarrel with an objective educational requirement.

66. Powell, 485.

67. The (Baton Rouge) State Times, May 9, 1921, p. 7, col. 1. See also New Orleans Times-Picayune, March 27, 1921, p. 1, col. 1.

68. Powell, 443.

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B. As an historical fact, and as appears from the evidence, the interpretation test was rarely, if ever, applied until the early fifties. It was not needed. The Democratic white primary made registration futile for Negroes.[69] The Democratic State Central Committee, acting under authority granted to it by the State, restricted all candidates and voters in the Democratic Party primary elections for state officers to white persons.[70] "[D]ebarment from the nominating process is in effect disfranchisement. Denial of the privilege of participating in primaries also means, essentially, ineligibility to party membership in general and excludes the negro from all party proceedings such as mass meetings, conventions, or caucuses of voters in the precinct and from delegate conventions in larger areas, to say nothing of party offices and candidacies in the party primaries." Weeks, The White Primary, 8 Miss.L.J. 135, 136 (1935).

The white primary not only effectively kept Negroes from voting in the only election that had any significance in the Louisiana electoral process but it also correspondingly depressed Negro registration to insignificantly low numbers. During the period from 1921 to 1946 Negro registration was never in excess of one per cent of the total registered voters, although the Negro population of the state then constituted about one-third of the potential voters. In 1942 only 957 Negroes were registered to vote in Louisiana and no Negroes were registered in fifty-one of the sixty-four parishes of Louisiana.

In 1944, white primaries, even those conducted by a political party and not by the State, were declared unconstitutional. Smith v. Allwright, 1944, 321 U.S. 649, 64 S.Ct. 757, 88 L.Ed. 987.[71] After the demise of the white primary, Negro registration in Louisiana rapidly increased, rising from 1,029 in 1944 to 7,561 in 1946, to 22,576 in 1948, and to 120,000 in 1952.[72] In 1956 there were 161,410 Negro voters, 15 per cent of the total registered vote in Louisiana, the highest percentage of Negro voters in any state in the southeastern region of the country.

The decline and fall of the white primary, the return of Negro soldiers from World War II, the intensified tempo of activity in Negro organizations after the School Segregation Cases in 1954, and the civil rights explosion all worked toward increasing Negro interest in voting. These and correlative factors made

69. "Until its nullification by the Supreme Court in 1944, the white primary was a more important component of the system than formal limitations on the right to vote. Negroes were excluded as Negroes from the party primary; they could be legally excluded from the general election only by indirection. Invalidation of the white primary, therefore, brought again into prominence the literacy test and other methods of disfranchisement by indirection." Key, Southern Politics, 555 (1949).

See also Weeks, The White Primary, 8 Miss.L.J. 135 (1935); Weeks, The White Primary: 1944-48, 42 Am.Pol.Sc.R. 500 (1948); Harris, The Quest for Equality 119-125 (1960); Moon, The Negro Vote in the Presidential Election of 1956, 26 Jour. Negro Education 219 (1957); Lubell, The Future of the Negro Voter in the United States, 26 Jour. Negro Education 408 (1957); Nabrit, The Future of the Negro Voter in the South, 26 Jour. Negro Education 418 (1957); Sindler, Huey Long's Louisiana 34 (1956); Ewing, Primary Elections in the South 4 (1957); Note, Negro Disfranchisement, 47 Col.L.Rev. 76, 77 (1947).

70. Minutes of the Democratic State Central Committee, various meetings, Oct. 6, 1931 to Oct. 7, 1947.

71. See also Nixon v. Herndon, 1924, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759; United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Terry v. Adams, 1953, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152; Elmore v. Rice, E.D. S.C.1947, 72 F.Supp. 516, aff'd 4 Cir. 1947, 165 F.2d 387, cert. den'd, 333 U.S. 875, 68 S.Ct. 905, 92 L.Ed. 1151.

72. The number of white voters increased from 711,289 in 1944 to 762,500 in 1946 to 885,437 in 1948. Again, these are from the Secretary of State Reports, Statements of Registered Voters in the State of Louisiana. See also Price, The Negro Voter in the South 1 (1957).

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it imperative for parish registrars in Louisiana to utilize the interpretation test, if the State intended to maintain its policy of segregation, historically indissolubly bound with disfranchisement of Negroes.

C. Immediately following the School Segregation Cases, two strong organizations dedicated to maintaining segregation in Louisiana were established, one by the legislature and one by private persons with official blessing. These two organizations have an important place in the history of the interpretation test. In our study, we see these organizations crossing and recrossing, publicizing and promoting the purpose and function of the test and how best to use it in order to prevent Negro participation in the electoral process. First, in 1954, the Louisiana legislature created a Joint Legislative Committee "to provide ways and means whereby our existing social order shall be preserved and our institutions and ways of life * * * maintained." This was to be accomplished by a program "to maintain segregation of the races in all phases of our life in accordance with the customs, traditions, and laws of our State." [73] This Committee became known as the "Segregation Committee". Its chairman was William M. Rainach, State Senator from Claiborne Parish where there are more Negroes than white persons.[74] Its counsel was William M. Shaw, also from Claiborne Parish. Second, at about the same time or before, Senator Rainach and Mr. Shaw and others organized and incorporated the Association of Citizens Councils of Louisiana to "protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects." [75] Senator Rainach was the first president of the Citizens Councils. Mr. Shaw was its first secretary. Senator Rainach and Mr. Shaw organized local councils and spearheaded the operations of the Segregation Committee.

In 1956, the Association of Citizens' Councils published a pamphlet, prepared by Mr. Shaw and Senator Rainach, entitled, "Voter Qualification Laws in Louisiana—The Key to Victory in the Segregation Struggle." The pamphlet advocated a two-step program. First, the registration rolls should be purged of "the great numbers of unqualified voters who have been illegally registered", and who "invariably vote in blocks and constitute a menace to the community." Second, registrars should strictly enforce the interpretation test. The pamphlet concludes, "The whole purpose of our registration laws is to prevent the registration of ignorant, 'bloc' voters * * *" The foreword of the pamphlet makes clear who is referred to by the term "bloc" voter:

> "The Communists and the NAACP plan to register and vote every colored person of age in the South * * *. They are not concerned with whether or not the colored bloc is registered in accordance with law."

No stress, no strain:

> "If our laws are intelligently and fairly administered, they will accomplish our purpose automatically."

The "Key to Victory" is subtitled, "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils." The booklet was the principal topic of discussion at State-sponsored meetings on voter registration attended by registrars and other public officials and was distributed to all persons attending such meetings. The State of Louisiana distributed it to parish registrars, with instructions to follow closely its purpose and intent. Senator Rainach and Mr. Shaw in their dual role as legislative and Citizens' Council leaders were clothed with State authority as they traveled about the State urging and even demand-

73. La. Legislature, House Concurrent Resolution No. 27 (1954).

74. The Report of the State Board of Registration for the month ending December 31, 1962, shows that 5,216 white persons and 34 Negroes are registered to vote in Claiborne Parish.

75. Article II, Act of Incorporation.

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ing that the registrars adopt their program.

Carrying out the first phase of the program, local Citizens Councils and their members conducted extensive purges, principally in 1956–58 in eight parishes throughout the state,[76] under the provisions of the challenge statute, Louisiana R.S. 18:133 (1950) LSA. The evidence shows that primarily Negroes were removed from the rolls, although a few whites were also purged in a token effort to maintain an air of nondiscriminatory treatment. Most registrars cooperated fully with Citizens Council members in conducting the purges when requested to do so. Innumerable white persons whose registration cards showed deficiencies similar to those of the Negroes were not purged. One registrar said in her deposition that in her parish the Citizen Council members conducting the purges corrected the errors they made *on their own registration applications, while at the same time challenging Negroes for similar mistakes.* Many purges were for failure to take the interpretation test, *even though that test had not been administered at the time of the registrant's application.* When contested in federal court, these purges were found to be illegal deprivations of the Negroes' constitutional rights. United States v. McElveen, 1960, E.D.La., 180 F. Supp. 10, modified sub nom. United States v. Thomas, 1960, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed.2d 535; United States v. Association of Citizens Councils of Louisiana, et al., 1961, W.D.La., 196 F. Supp. 908; United States v. Wilder, 1963, W.D.La., 222 F.Supp. 749.

In late 1958 and early 1959 the Segregation Committee and the State Board of Registration jointly sponsored meetings in each congressional district. Registrars were required to attend; sheriffs, police jurors, and other parochial officials, and officers of citizens councils also attended the meetings. At these meetings the Citizens Council's "Key to Victory" was officially distributed to the registrars. Senator Rainach, at that time still Chairman of the Segregation Committee and President of the Association of Citizens Council, was the chairman at these meetings. Mr. Shaw, at that time was still counsel for the Segregation Committee and still counsel for the Association. They led these meetings, vigorously emphasizing the importance of maintaining segregation.

Senator Rainach would tell the registrars, "The fight for school integration in the South has shifted * * * to a fight for the voters of the Negro masses * *" He pointed out to the registrars that during the Reconstruction Period, when Negroes were permitted to vote, the public schools of Louisiana were integrated, and that, with the Negroes representing 32

76. Beginning April 15, 1956, the Citizens Council of Ouachita Parish challenged all 5,782 of the registered Negroes. Of these, all but 595 were stricken from the rolls. The Attorney General of Louisiana sent Mr. Shaw as a special representative to advise the Registrar of voters of Ouachita Parish. As of December 1962, Negro registration in Ouachita was up to 1,038. In Bienville Parish permanent registration was adopted after the purge. All persons who had registered since January 1, 1953, were put on the permanent rolls, except those who were purged. For the Negroes, nearly all of whom were purged, the interpretation test was a prerequisite to registration while for whites, nearly all of whom had registered before it was not a prerequisite. Thus, as of October 1, 1955, there were 4,825 white persons registered to vote in Bienville Parish out of a white voting population which, according to the 1960 census, was 5,617.

Some parishes required no special effort. For example, in East Carroll, Madison, Tensas, and West Feliciana, there were no registered Negroes and in Claiborne there were only a few on the rolls. In parishes such as Webster, Morehouse, Franklin, and West Carroll, where there was periodic registration, there was no need for a purge because the rolls were automatically cleared. Negro registration in Webster dropped from 1,776 to 83 in 1958. However, there were purges even in some parishes which had periodic registration, such as Lincoln, Red River, and Richland Parishes. Negro registration in Red River dropped from 1,360 to 16 in 1958.

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per cent of the population of the state, the Negroes could easily do again what they did during the Reconstruction Era, if they should become registered to vote.

According to Senator Rainach, "In 1897, our forefathers in Louisiana started a program of voter qualification law enforcement, knowing that such a program would provide the solution to their problems." The present voter qualification laws "are adequate to solve our present problems * * *" Senator Rainach stressed that "registrars have become critically important officials * * * they have become the focal point of the solution to our problems."

Mr. Shaw would explain the registrar's part. The *"key to the solution of our whole problem lies in the interpretation of the Constitution," Mr. Shaw told the registrars.* He urged the registrars to require applicants to interpret the constitution and provided them with 25 test cards to be used for this purpose. Mr. Shaw instructed the registrars:

> "[T]he constitutional test and their ability to understand the duties and responsibilities under a republican form of government, which is another one of the tests, is basically a test of a person's understanding, which is native intelligence in that you can educate a fool, but you'd still have nothing but an educated fool when you get through, and he wouldn't be able to qualify. And therefore, *if they were correctly and fairly administered*—that's the key to the whole thing—directed fairly—then it will amount to a test of ability, of a person's understanding, which is native ability. It is not education. Education can merely refine native understanding. If you have no native understanding to start out with, it can't be refined." (Emphasis added.)

Mr. Shaw also told the registrars:

> "Constitutional tests are a test of native intelligence and not 'book learning'. Experience teaches that most of our own white people have this native intelligence while most Negroes do not."

Mrs. Mary C. Flournoy, former Registrar of Winn Parish, gives us some indication of the meaning of "correctly and fairly administer[ing]" the test. She stated that Senator Rainach, while he was Chairman of the Segregation Committee, told her to discriminate on account of race in processing applications:

> "Rainach told me if * * * I can't fail them [Negro applicants] any other way, I could pull those Constitution reading cards on them.
>
> "* * * Rainach wanted me to pull those hard cards on colored people."

D. The Louisiana *Codes Noir* of Colonial times and the Black Codes of the eighteen sixties; the pre-Civil War denial of the vote to Negroes, even to wealthy and educated free men of color; the ebb and flow of Negro rights in the Constitutions of 1864 and 1868; the 1879 transfer of political power from police juries and the legislature to the Governor; the close election of 1892 and the 1896 victory for white supremacy; the grandfather clause and the complicated registration application form in the Constitution of 1898; the invalidity of the grandfather clause and the consequent resort to Mississippi's understanding and interpretation clause; the effectiveness of the white primary as a means of disfranchising Negroes; the invalidity of the white primary and the consequent need to revive enforcement of the interpretation test; the White League and the Citizens' Councils; the Black League and the N.A.A.C.P.; the Battle of Liberty Place in 1874 and the Ouachita voting purge of 1956—these are all related members of a series, all reactions to the same dynamics that produced the interpretation test and speak eloquently of its purpose.

[18] In sum, the interpretation test is another grandfather clause. Its purpose is rooted in the same history. It has the same objective the delegates to the Constitutional Convention of 1898 envisaged for the grandfather clause. It

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is capable of producing the same effective disfranchisement of Negroes today that the grandfather clause produced sixty-five years ago.

V.

[19] Having determined the true reason for the interpretation test in its historical setting, we turn from *why* to *how* the test is used as a discriminatory device.

There are two reasons for a court to consider how a law is administered. The obvious reason is that any regulatory statute may be administered unfairly. If so, the court may enjoin the unfair acts without passing on the validity of the statute. But there is another reason. Just how a law is actually used by those charged with administering it is a proper guide to the purpose of the law and its necessary effect. Here, we find massive evidence that the registrars discriminated against Negroes not as isolated or accidental or unpredictable acts of unfairness by particular individuals, but as a matter of state policy in a pattern based on the regular, consistent, predictable unequal application of the test. This is the inescapable effect of a subjective requirement such as an understanding or interpretation test barren of standards and safeguards, the administration of which rests in the uncontrolled discretion of a registrar.

The United States introduced a great mass of evidence in the record, but with commendable diligence made it digestible by well-prepared indices and well-organized summaries. The evidence of discriminatory application of the interpretation test is especially well documented and supported by testimony with respect to the following parishes: Plaquemines, East Feliciana, Webster, Bienville, Red River, Jackson, and Ouachita.

A. First of all, a Louisiana registrar has the power to use or not to use the interpretation test. The parties to this case stipulated that the test had never been used in the four largest parishes of the state, Caddo, Jefferson, East Baton Rouge, and Orleans. These parishes have almost forty per cent of the total number of registered voters in the State. The United States introduced evidence that the interpretation test was used in twenty-one parishes.[77] No mention was made of the other thirty-nine parishes in the state. The evidence shows that the test was seldom, if ever, applied anywhere in Louisiana before 1954 [78] because, as previously pointed out, until the white primary was invalidated there was no need for the test. This means that the *majority of Louisiana voters now registered under the permanent registration law have never taken the test.*

In the twenty-one parishes where it has been shown that the interpretation test has been used, as of December 31, 1962, only 8.6 per cent of the adult Negroes were registered as against 66.1 per cent of the adult white persons registered. Before the interpretation test was put into use, a total of 25,361 Negroes were registered in the twenty-one parishes using the test. By August 31, 1962, total Negro registration in these parishes was 10,351. During the same period, white registration was not discernibly affected.

B. The decision to enforce the interpretation test more than thirty years after its adoption was accompanied, in almost every parish where the test has

77. These parishes are: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn. The Director of the State Board of Registration testified that certain other parishes use the test but he had no personal knowledge of this. He said also that Caddo Parish uses the test; the parties however have agreed that Caddo does not use it.

78. The depositions were taken of twenty registrars and former registrars who used the interpretation test. The earliest use of the test by any of these registrars was in November 1955. The former registrar of Plaquemines Parish testified that he started using the test late in 1954.

been used, by a wholesale purge of Negro voters or by periodic registration so that Negro voters were required to re-register *after* the test came into use. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all of the requirements of the Louisiana voter qualification laws at the time they registered. Actually, the challenged Negroes had satisfied all the requirements imposed by the registrar *at the time* they registered. White voters had registered under the same standards and procedures as the Negroes and their registrations suffered from the same alleged deficiencies as the Negroes who were purged. In at least two parishes, Ouachita and East Feliciana, one ground for challenging Negroes was that they had not interpreted or were not able to interpret a constitutional section, even though the test had not been used in either parish before the purge.

In most parishes where there was a purge, since the Negroes were unable to gain reinstatement in the manner prescribed by Louisiana law, they were required to re-register. And to do so they had to pass the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purge and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita and Rapides, which have permanent registration. In parishes using periodic registration the purges had a deterrent effect on Negro registration which is still felt.[79]

C. The registrar's whim alone determines which applicants will be tested. The Constitution merely states that applicants "shall *be able to* understand and give a reasonable interpretation" of a section of a constitution. Some registrars, for example, those in LaSalle, Lincoln, and Webster parishes, have interpreted this to mean that the applicant need not actually interpret the constitution, only that he have the ability to do so. The State Board of Registration maintained at one time that the correct interpretation was that the applicant must demonstrate his ability in all cases. It has, however, changed its understanding or interpretation of this very section of the Constitution. After the institution of this suit, the Board prescribed another test, instructing registrars to cease requiring an interpretation. The change in the interpretation given the interpretation-test provision of the Constitution by the State agency charged with enforcing it and the wide variety of interpretations adopted by the registrars reaffirm the impossibility of achieving objective standards for an interpretation of the Constitution acceptable to the State. Pity the applicant asked to interpret the interpretation test!

D. The Louisiana Constitution contains 443 sections, as against 56 sections in the United States Constitution, and is the longest and the most detailed of all state constitutions. The printed copy published by the State, unannotated, contains 600 pages, not counting an index of 140 pages. The evidence clearly demonstrates great abuses in the selection of sections of the constitutions to be interpreted. Some registrars have favorite sections which they apparently use regardless of an applicant's race. Some open a volume containing the United States and Louisiana Constitutions and, like soothsayers seeking divine help from the random flight of birds, require an applicant to interpret the section on the page where the book opens. The Segregation Committee distributed to registrars sets of twenty-four cards, each containing three sections of the Constitution with instructions that they be used in administering the interpretation test. The Registrar of Ouachita Parish used a set of test cards containing sections chosen by the Citizens' Council. The Registrar of Plaquemines used cards and an-

79. Thus, in Red River Parish very few Negroes have applied since 1956, although there were 1,302 Negroes registered before the purge. As of December 31, 1962, there were 31 Negroes registered.

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swers prepared by Mr. Leander Perez, District Attorney for the Parish.

It is evident from the record that frequently the choice of difficult sections has made it impossible for many Negro applicants to pass. White applicants were more often given easy sections, many of which could be answered by short, stock phrases such as "freedom of speech", "freedom of religion", "States' rights", and so on. Negro applicants, on the other hand, were given parts of the Louisiana Constitution such as Article VII, § 41; Article X, § 1, § 16; Article XIV, § 23, § 24.2.[80]

E. As in the selection process, gross abuses of discretion appear in the evaluation of the interpretations. One rejected Negro applicant stated that the registrar "said what I was saying was right, but it wasn't like she wanted me to say it".

Most of the interpretation tests have been administered orally, thus precluding the use of written records as a check on what the registrar accepted as reasonable interpretations. Nevertheless, the record shows that interpretations far less responsive to the constitutional text selected have been accepted from whites than from Negroes. Compounding this with the fact that Negroes were often given more difficult sections to interpret, the bias in favor of the whites becomes readily apparent.

Some parishes administered written examinations and kept records of the questions asked and the responses accepted. In these examinations the registrar usually employed one or more of several sets of cards containing selected sections of the Constitution and a space for the applicant's interpretation of it. Even the most cursory glance at the records in these parishes underscores the heavy burden under which Negro applicants were laboring. In one set of cards, there is great disparity in the difficulty of the questions asked. This enables the registrar to select cards with simple sections for white applicants and difficult cards for Negroes. There is unmistakable evidence that many white applicants were shown cards with sample answers on them. Some applicants admitted this, and there is even an instance of a white

80. Article 7 reads: "All cases in which the punishment may not be at hard labor shall, until otherwise provided by law, be tried by the judge without a jury. Cases, in which the punishment may be at hard labor, shall be tried by a jury of five, all of whom must concur to render a verdict; cases, in which the punishment is necessarily at hard labor, by a jury of twelve, nine of whom must concur to render a verdict; cases in which the punishment may be capital, by a jury of twelve, all of whom must concur to render a verdict." Article 10 reads: "The power of taxation shall be vested in the Legislature; shall never be surrendered, suspended or contracted away; and all taxes shall be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only. No property shall be assessed for more than its actual cash value, ascertained as directed by law, and all tax-payers shall have the right of testing the correctness of their assessments before the courts at the domicile of the assessing authority, or as may be directed by law. The valuation and classification fixed for State purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivision may adopt a different percentage of such valuation for purposes of local taxation." Article 14 reads: "The City of New Orleans by a vote of three-fourths of all members of the Sewerage and Water Board of New Orleans, approved by a vote of three-fourths of all the members of the Board of Liquidation, City Debt, and approved by resolution of the Commission Council, or its successor as the governing body of said municipality, adopted by a vote of two-thirds of all the members of said Council, or governing body, shall have power and is hereby authorized to issue bonds to the amount of Nine Million Dollars ($9,000,000) of said City to be styled 'City of New Orleans, Sewerage, Water and Drainage Serial Gold Bonds', and to bear such rate of interest as the Board of Liquidation, City Debt, may fix from time to time as said bonds are offered for sale, as hereinafter provided, for the purpose of constructing and extending the sewerage, water and drainage system of said City."

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applicant having, by mistake, signed the sample answer card. Negroes were not allowed to see the acceptable answers, let alone copy them. Similarly, the pattern of the answers indicates that the registrars often told white applicants the currently acceptable answers. The phraseology of almost every answer in one parish changed right along with the registrar's change in the wording of the acceptable answer.

Registrars were easily satisfied with answers from white voters. In one instance "FRDUM FOOF SPETGH" was an acceptable response to the request to interpret Article 1, § 3 of the Louisiana Constitution.

On the other hand, the record shows that Negroes whose application forms and answers indicate that they are highly qualified by literacy standards and have a high degree of intelligence have been turned down although they had given a reasonable interpretation of fairly technical clauses of the constitution. For example the Louisiana Constitution, Article X, § 16 provides: "Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission, and shall be taxed for State purposes only, at a rate not to exceed forty mills on the dollar assessed value." The rejected interpretation was: "My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed forty mills on the dollar."

In another instance the registrar rejected the following interpretation of the Search and Seizure provision of the Fourth Amendment: "[N]obody can just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what they were to search and seize." Another rejected interpretation of the same Amendment by a Negro applicant was: "To search you would have to get an authorized authority to read a warrant." The Louisiana Constitution Article I, § 5 provides: "The people have the right peaceably to assemble." A registrar rejected the following interpretation: "That one may assemble or belong to any group, club, or organization he chooses as long as it is within the law."

Each of these incidents *could* conceivably be an isolated event, indicating personal dereliction by one registrar, regrettable, but basically trivial in the general administration of the interpretation test. However, the great number of these and other examples, illustrative of a conscious decision, show conclusively that the discriminatory acts were not isolated or accidental or peculiar to the individual registrar but were part of a pervasive pattern and practice of disfranchisement by discriminatory use of the interpretation test.

The State does not deny that unlimited discretion is vested in the registrars by the laws of Louisiana, but argues that officials must act reasonably and that their decisions are subject to review by district courts. Louisiana, however, provides no effective method whereby arbitrary and capricious action by registrars of voters may be prevented or redressed. Unreviewable discretion was built into the test.

The State Board of Registration recently recognized the arbitrary nature of the test, and, as indicated earlier in this opinion, abandoned its general use after the institution of this suit. However, the Constitution and statutes of Louisiana still require the use of the understanding and interpretation test. And registrars have not entirely abandoned it, despite the institution of the new test. For example, as late as April 1963 the Webster registrar was using the interpretation test because, as she explained, "it's still on the books"; sometimes she gave the citizenship test and sometimes the interpretation test. Voters registering now could be challenged and purged in the future for not taking the interpretation test—should history repeat itself. This is exactly what happened in the middle and late nineteen-fifties.

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F. The statistics demonstrate strikingly the effect of resurrection of the interpretation test. A report of the Louisiana Sovereignty Committee, December 14, 1960, boasts:

"We would like to call your attention to the fact that, during this four year period of time, from 1956 until 1960, 81,214 colored people became of voting age, when the registration figures of colored people actually declined 2,377. Going further during this four year period, we had 114,529 white people who became of voting age and, during this four year period of time, the white registration increased 96,620."

The State of Louisiana accomplished its purpose in the parishes where the constitutional interpretation test was used.[81] In those twenty-one parishes, registration of white persons between 1956 and December 31, 1960, increased from 161,069 to 162,427; registration of Negroes decreased from 25,361 to 10,256.

VI.

We have considered the true reason for the test, how the test was in fact used to accomplish its purpose, and its necessary effect. Now, we apply the law.

[20] No one doubts the broad scope of the State's power to fix reasonable, nondiscriminatory qualifications for voting consistent with the Constitution. Thus, a literacy test bears a reasonable relation to a governmental objective and, if it does not perpetuate past discrimination, is a permissible requirement. "[I]n our society * * * a State might conclude that only those who are literate should exercise the franchise." Lassiter v. Northampton County Bd. of Elections, 1959, 360 U.S. 45, 52, 79 S.Ct. 985, 990, 3 L.Ed.2d 1072. Since Louisiana has the highest illiteracy rate in the nation, the State has even more reason than most states to use a literacy test as a spur to improve the level of the electorate. *But the understanding clause, which is an interpretation test of the constitutions,*

81. DISCRIMINATORY EFFECT OF THE INTERPRETATION TEST

| PARISH | Voting Age Population (1960) | | Registered Voters March 17, 1956 | | Registered Voters Dec. 31, 1960 | |
|---|---|---|---|---|---|---|
| | White | Negro | White | Negro | White | Negro |
| Bienville | 5,617 | 4,077 | 5,328 | 587 | 5,175 | 25 |
| Claiborne | 6,415 | 5,032 | 5,808 | 17 | 5,501 | 29 |
| DeSoto | 6,543 | 6,753 | 5,640 | 762 | 5,822 | 504 |
| East Carroll | 2,990 | 4,183 | 3,000 | 0 | 2,845 | 0 |
| East Feliciana | 4,200 | 4,102 | 2,812 | 1,361 | 2,448 | 82 |
| Franklin | 8,954 | 4,433 | 8,207 | 650 | 8,260 | 390 |
| Jackson | 6,607 | 2,535 | 5,457 | 1,113 | 5,804 | 483 |
| LaSalle | 6,799 | 849 | 6,864 | 742 | 6,823 | 229 |
| Lincoln | 9,611 | 5,723 | 7,029 | 1,106 | 6,928 | 860 |
| Morehouse | 10,311 | 7,208 | 9,400 | 935 | 7,489 | 301 |
| Ouachita | 40,185 | 16,377 | 24,184 | 5,782 | 24,789 | 729 |
| Plaquemines | 8,633 | 2,897 | 4,741 | 49 | 7,160 | 47 |
| Rapides | 44,823 | 18,141 | 26,293 | 3,160 | 30,362 | 3,073 |
| Red River | 3,294 | 2,181 | 3,575 | 1,512 | 3,429 | 27 |
| Richland | 7,601 | 4,608 | 7,195 | 740 | 6,075 | 263 |
| St. Helena | 2,363 | 2,082 | 2,555 | 1,094 | 2,478 | 1,243 |
| Union | 7,021 | 3,006 | 6,895 | 1,600 | 5,911 | 597 |
| Webster | 15,713 | 7,045 | 12,618 | 1,769 | 12,250 | 130 |
| West Carroll | 6,171 | 1,389 | 5,660 | 202 | 5,182 | 70 |
| West Feliciana | 1,632 | 2,235 | 1,272 | 0 | 1,303 | 0 |
| Winn | 6,790 | 2,590 | 6,449 | 1,430 | 6,393 | 1,093 |
| TOTAL | 212,273 | 107,446 | 161,069 | 25,361 | 162,427 | 10256 |

*must not be confused with a literacy test or the two treated as peers.* Under Louisiana law, any literacy qualification is met by the requirement that the applicant read to the registrar the Preamble of the United States Constitution. In fact, an applicant need write the Preamble only in his mother tongue, through the dictation of an interpreter if he cannot speak, read, or write English. La.Const. Art. VIII, § 1(c). For good measure, ability to fill out an application form is an additional test of literacy. Moreover, under another statute and provision of the State Constitution, until 1960 *all of the time Louisiana had an interpretation test it allowed illiterates to vote.*[82] (LSA–R.S. 18:36). In November 1962 the State carried 37,365 illiterates on the registration rolls.

We do not have before us a test having a rational relation with the proper governmental objective of giving the vote only to qualified persons. Despite assurances by state officials at the meetings of the registrars that this test measures "only native intelligence", the truth of the matter is that there is nothing in native intelligence that will enable those untutored in constitutional law to give a reasonable interpretation of a highly technical document containing such legal concepts as, for example, venue, due process, the requisites of a criminal indictment, appellate court jurisdiction, and jurisdictional amount. Whatever name the State elects to give to the test, it is not a test of intelligence or citizenship when it enables a registrar to flunk eight Negro school teachers while passing eight illiterate white persons.[83]

[21] As it is administered and as it was designed to be administered, the Louisiana understanding and interpretation test bears no relation to reasonable voting requirements. If a registrar should require an applicant to interpret Article X of the Louisiana Constitution dealing with the distribution between State and parish of *ad valorem* severance taxes on sulphur on the one hand and oil and gas on the other hand, we would find it impossible to hold that an interpretation of this provision served a rational governmental interest in withholding the suffrage from unqualified voters. Short of a government of philosopher-kings,—and no one has ever described Louisiana government in such terms—there is just no correlation between an ability to interpret *any* section of the Louisiana Constitution a registrar may thrust at an applicant for registration and a legitimate State interest in an informed electorate.

The ugly intractable truth is, the nexus is with unlawful discrimination. The ineradicable vice vitiating any relation to a legitimate governmental objective is the raw power vested in the registrar. The unrestricted power which makes the registrars' discriminatory and arbitrary conduct possible comes from the words "understand" and "interpretation." "Understand" and "interpretation" are words without definite meaning in the law. Their purposive ambiguity is the key to the true reason for the test:

> "The terms 'read', 'speak' and 'write', unlike the words 'understand' and 'explain' have considerable objective content, and the quan-

82. The distribution of literacy among the registered voters is revealing.

| | 1940 | 1960 |
|---|---|---|
| Number of white voters who write their names | 652,271 | 786,506 |
| Number of Negro voters who write their names | 848 | 116,676 |
| Number of white voters who make mark | 50,473 | 22,956 |
| Number of colored voters who make mark | 14 | 12,804 |

83. This bizarre result was reached in East Feliciana.

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tum of administrative decision that could be employed within the framework of such terminology would seem to be negligible. In contrast, * * * in both Louisiana and Mississippi [a would-be] voter is required to give a 'reasonable interpretation' of the Constitution of the United States. The language employed in these tests is similar to that of the Alabama literacy amendment and, because of its vagueness, would appear equally censurable." Note, 49 Col.L.Rev. 1144, 1146 (1949).

The understanding and interpretation of anything is an intimately subjective process. A communication of that understanding is itself subject to the understanding or interpretation of the listener or reader. Even in an atmosphere of mutual cooperation and good will, it is often very difficult for one person to know that the other actually understands what is being said or done. As appears from the evidence, however, in many registration offices in Louisiana the relation between the Registrar and Negro applicants can hardly be described as mutually cooperative. As Senator Rainach and Mr. Shaw, officers of the State of Louisiana, candidly described it, the registration office in Louisiana is "the front line of the battle" to retain a segregated society.

Without help from Senator Rainach or Mr. Shaw—the customs of generations, the mores of the community, the exposure of the individual to segregation from the cradle make it difficult, if not impossible, for a registrar to evaluate objectively what is necessarily a subjective test. We are sensible of the registrar's difficulties—he must live with his friends—but we must recognize that his predilections weight the scales against Negroes and hinder fair administration of an interpretation test or a citizenship test. When neither the Constitution nor the statutes prescribe any standards for the administration of the test, the net result is full latitude for calculated, purposeful discrimination and even for unthinking, purposeless discrimination.

In Davis v. Schnell, S.D.Ala.1949, 81 F.Supp. 872, aff'd memo. 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093, a three-judge court (Circuit Judge McCord and District Judges Mullins and McDuffie) had before it the Boswell Amendment to the Alabama Constitution. The Court held (as we do in the case before us) that the test was invalid on its face and invalid as administered.

The Boswell amendment, adopted in 1946, permitted registration only of persons who could "understand and explain" any article of the Federal Constitution. The Court dealt at length with the meaning of the word "understand":

"As pointed out, 'understand' may mean to interpret. [Louisiana uses both words.] This meaning requires an exceedingly high, if not impossible, standard. The distinguished Justices of the Supreme Court of the United States have frequently disagreed in their interpretations of various articles of the Constitution. We learn from history that many of the makers of the Constitution did not understand its provisions; many of them understood and believed that its provisions gave the Supreme Court no power to declare an act of Congress unconstitutional. An understanding or explanation given by the Supreme Court a few years ago as to the meaning of the commerce clause does not apply today. Among our most learned judges there are at least four different understandings and explanations of the Fourteenth Amendment to the Constitution as to whether it made the first eight Amendments applicable to state action. Such a rigorous standard * * * illustrates the completeness with which any individual or group of prospective electors, whether white or Negro, may be deprived of the right of franchise by boards of registrars inclined to apply this one of the innumerable meanings of such

an indefinite phrase. * * *" 81 F.Supp. at 877–878.

*Davis v. Schnell* was heard shortly after the adoption of the amendment. The Court was concerned therefore with only a few examples of arbitrary action and concentrated its discussion on the inherent potential for discriminatory and arbitrary administration. The Court held that the understanding clause violated the Fourteenth Amendment:

"To state it more plainly, the board has the right to reject one applicant and accept another, depending solely upon whether it likes or dislikes the understanding and explanation offered. To state it even more plainly, the board, by the use of the words 'understand and explain,' is given the arbitrary power to accept or reject any prospective elector that may apply, or, to use the language of Yick Wo v. Hopkins, 118 U.S. 356, 366, 6 S.Ct. 1064, 1069, 30 L.Ed. 220, these words 'actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case, but a naked and arbitrary power to give or withhold consent * * *.' * * * *Such arbitrary power amounts to a denial of the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution* * * *." 81 F.Supp. at 878.

The Court also held that both the legislative purpose and the administration of the test violated the Fifteenth Amendment:

"It, thus, clearly appears that [the Boswell] Amendment was intended to be, and is being used for the purpose of discriminating against applicants for the franchise on the basis of race or color. Therefore, we are necessarily brought to the conclusion that the Amendment to the Constitution of Alabama, *both in its object and the manner of its administration, is unconstitutional, because it violates the Fifteenth Amendment. While it is true that there is no mention of race or color in the Boswell Amendment, this does not save it.*" (Emphasis supplied.)

Referring to *Davis v. Schnell*, *in Lassiter v. Northampton Election Board* the Supreme Court has said:

"In *Davis v. Schnell* * * * the test was the citizen's ability to 'understand and explain' an article of the Federal Constitution. The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy."

The Fifth Circuit has recently applied the *Davis v. Schnell* rationale in an action by the United States under 42 U.S.C.A. § 1971(c) against the Board of Registrars of Dallas County, Alabama. United States v. Atkins, 1963, 5 Cir., 323 F.2d 733. In that case the district court held that the prior Board had discriminated against Negroes, the current Board had not. Section 181 of the Alabama Constitution provides that the boards of registrars, in determining the qualifications of applicants, use a questionnaire so worded that the answers would give information necessary or proper to enable the boards to pass upon the qualifications of the applicants. The predecessor section to Section 181 was "the understand and explain" clause struck down in *Davis v. Scanell*. There was "no set standard for the 'grading' of questionnaires." The Court of Appeals held that "this is precisely the sort of practice condemned in *Davis v. Schnell*" and granted an injunction against the current Board rejecting applicants for errors or omissions in the questionnaire until they presented to the court a "definite set of standards" which would meet the approval of the court.

The State of Louisiana itself, through its authorized legal advisory agency, the Louisiana Law Institute,[84] has questioned the constitutionality of the interpretation

84. The Louisiana Law Institute, composed of the State's most distinguished attorneys and law teachers, is chartered by the legislature as "an official advisory

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test. Act 52 of the Louisiana legislature of 1946 directed the Louisiana Law Institute to prepare a draft or "projet of a Constitution for the State of Louisiana". In 1954 the work was completed and circulated by the State.[85] After a thorough study of the law, the Institute concluded that if the provisions of the Louisiana Constitution establishing an understanding and interpretation test were attacked in court, "Certainly if the same charges could be successfully made concerning the Louisiana provisions [as were made in *Davis v. Schnell*], they would be unconstitutional."[86] The Reporter commented that "although discrimination in administration was found [in Davis v. Schnell], the lower court * * * declared the provision unconstitutional *on its face because it furnished no test or standard to control* administrative discretion". The Institute summarized its position as follows:

"1. The Institute in deleting these qualifications was influenced by the following considerations:

a. The doubtful constitutionality of the present provisions;

b. The arbitrary power they give to registrars of voters, since no objective criteria are provided; and

c. The authority given the legislature under the Projet to require additional educational qualifications."

law revision commission, law reform agency and legal research agency of the State of Louisiana". LSA-R.S. 24:201 (1950). See Smith, Role of Louisiana Law Institute, 16 La.L.Rev. 691 (1956); Tucker, The Louisiana Law Institute, 1 La.L.Rev. 139 (1938).

85. In 1956 the voters rejected a constitutional convention.

86. The Institute's comments on Davis v. Schnell are:

"It is clear that the constitutionality of the provisions listed above is now questionable. It is impossible to predict exactly what the supreme court may require in the future to strike down the 'understanding' and similar clauses. *In the Schnell case it was shown (1) that the purpose in adopting the amendment was to disfranchise the Negroes* and (2) *that, in fact, the amendment was administered in such a way as to disfranchise the Negroes.* [Emphasis added.] Certainly if the same charges could be successfully made concerning the Louisiana provisions, they would be unconstitutional.

"It also seems likely that the court would find a violation of the equal protection clause of the Fourteenth Amendment if only discriminatory administration were proved. [Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064 [30 L.Ed. 220] (1886); William [Williams] v. Mississippi, 170 U.S. 213, 18 S.Ct. 583 [42 L.Ed. 1012] (1898); and Trudeau v. Barnes, [5 Cir.] 65 F.(2d 563 (1933)]. Discrimination as to race or color in administration, together with disfranchisement of the Negro as the original purpose of a constitutional provision, would seem to be contrary to the Fifteenth Amendment.

"Whether constitutional provisions of this character could now stand, even though there is no showing of malicious purpose in adoption or discrimination in administration, is subject to question. In two previous cases involving such 'understanding' clauses, one concerning the Mississippi constitutional provision [Williams v. Mississippi, 170 U.S. 213, 18 S. Ct. 583 [42 L.Ed. 1012] (1898)] and the other involving the Louisiana constitutional provision [Trudeau v. Barnes, [5 Cir.] 65 F.(2d) 563 (1933)], the court held that the constitutional provisions standing alone without proof of discrimination in administration were not unconstitutional as violative of the equal protection clause of the Fourteenth Amendment. However, in the *Schnell* case, although discrimination in administration was found, the lower court did not base its conclusion upon this; *rather, it declared the provision unconstitutional on its face because it furnished no test or standard to control administrative discretion.* Thus, it may be that now such provisions will be held unconstitutional in themselves regardless of whether or not discriminatory administration is found." 3 Projet of a Constitution for the State of Louisiana 40, 41 (1954).

In addition to deleting the interpretation test, the Projet also omits the requirements of (1) filling out the registration application form, (2) the good character clause, and (3) the clause requiring one to understand the duties and obligations of citizenship.

In Darby v. Daniel, S.D.Miss.1958, 168 F.Supp. 170, a three-judge court (Circuit Judge Cameron and District Judges Mize and Clayton) distinguished the Boswell Amendment from a Mississippi provision requiring voters to "understand * * * and give a reasonable interpretation" of "any section of the Constitution" of Mississippi. The *Darby* Court found that, unlike the Boswell Amendment, the Mississippi understanding test did not grant arbitrary power and that there was no evidence of its having been used arbitrarily. In *Darby* the Court declared that it could find no legislative purpose to discriminate and no proof showing racial discrimination.[87] Both are present in the instant case. But *Darby's* actual narrow holding was only that the plaintiff was not qualified and had not exhausted his state remedies.

We cannot see any substantial difference between "understand and explain" (the Boswell Amendment) and "understand * * * and give a reasonable interpretation". As pointed out earlier, the Mississippi understanding clause is the same test the Louisiana delegates to the Constitutional Convention of 1898 could not stomach, which was swallowed without gagging by the stronger-stomached delegates to the Convention of 1921.[88] The dicta in *Darby v. Daniel* must yield to the Supreme Court's holding in *Davis v. Schnell.*

If it may be said that *Trudeau v. Barnes*, 5 Cir. 1933, 65 F.2d 563, upholds the validity of the Louisiana interpretation test, that decision is no longer the law, in the light of *Davis v. Schnell* and the more recent cases. The *Trudeau* court, in 1933, was unable to find that the interpretation test was adopted for the purpose of disfranchising the Negro. However, in *Trudeau* there were important circumstances, not present here, which the court was compelled to consider in reaching a decision. (1) The case was an action at law against the registrar for damages. (2) The case was decided on a motion to dismiss, so that the Court did not have the benefit of evidence of a discriminatory purpose and proof of the discriminatory effect of the interpretation test. (3) At the time the case was decided, the law required the plaintiff to exhaust his administrative remedy. By express provision in the Civil Rights Act, it is no longer necessary for a plaintiff to exhaust state remedies.

Each registrar in Louisiana is the sole judge of whether to apply the interpretation test or not to apply it and whether an applicant qualifies. The judgment is made without guidance, without standards, without limitations imposed by law; the judgment is necessarily subjective. Thus the right to vote depends more upon the caprice of the registrar than upon the possession of measurable qualifications.

A year after the Convention of 1898 rejected the Mississippi understanding

87. In *Darby* the court relied strongly on Williams v. Mississippi, 1898, 170 U.S. 213, 18 S.Ct 583, 42 L.Ed. 1012. That case did not involve a direct attack on the standards for registration. *Williams* was a murder case; the suffrage issue was collateral. The record in *Williams*, as in *Trudeau*, showed no proof of a discriminatory purpose and no discriminatory use of the test. Moreover, the relief sought was registration under the "understanding" standards rather than invalidation of them. See Comment, 72 Yale L.Jour. 770 (1963).

88. The delegates to the Constitutional Convention of 1921 fully understood that the Convention had adopted the Mississippi understanding clause. Thus, Frank J. Looney, an active member and prominent lawyer, wrote in 1925: "This is the clause known as the 'understanding clause' and has been passed on by the United States Supreme Court in the case of Williams v. Mississippi, 170 U.S. 213 [18 S.Ct. 583, 42 L.Ed. 1012]." Looney, Suffrage in the Constitution of 1921, 6 Loyola L.Jour. 75, 79 (1925). "With regard to suffrage the principal feature * * * is the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Berdahl, The Louisiana Constitutional Convention, 15 Amer.Pol. Sc.Rev. 565 (1921). See also Footnotes 45 and 46.

clause, Thomas J. Kernan, an outstanding Louisiana lawyer and one of the delegates to the convention, pegged the understanding and interpretation test about as well as it could be pegged:

> "The 'understanding clause' was objectionable for many reasons * * *. The adoption of such a plan would have negatived the idea of a return to 'purer methods, wiser laws' in the matter of elections, which, in Louisiana, had grown to be a demand, second in importance only to that for the elimination of the negro from the electorate. *This 'understanding clause' fixes no standard of qualification for the franchise.* It is left to the discretion of the registration officer to select any one of the numerous articles of the Constitution as the test of the voter's 'understanding;' and *there are, therefore, as many different tests as there are articles in the Constitution. This arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance.* As long as registration officers are mere men, endowed with the same qualities only as their fellow mortals, it will always be unsafe to intrust them with such absolute power. The Convention, in my opinion, acted wisely in refusing to adopt the 'understanding clause,'." Kernan, The Constitutional Convention of 1898 and Its Work, Proc. La.Bar Ass'n for 1899, 54, 59.

[22, 23] The orderly society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualifications of voters, it has enacted "not a law, but an attempt to make the arbiter in such a case a law in himself." City of New Orleans v. Palmisano, 1920, 146 La. 518, 83 So. 789, 791. See also State v. Chiesi, 1937, 187 La. 675, 175 So. 458; City of New Orleans v. Levy, 1937, 188 La. 844, 96 So.2d 210; Banjavich v. Louisiana Licensing Bd. for Marine Divers, 1939, 237 La. 467, 111 So.2d 505. When a State constitution gives raw power to a registrar to grant, or to withhold registration as he sees fit, the constitution violates both the due process and the equal protection clauses of the Fourteenth Amendment.

Yick Wo v. Hopkins firmly established the principle that the unequal enforcement of a law will render the results of the enforcement void. In Yick Wo, convictions were overturned without a declaration that the ordinance itself was invalid, assuming possible nondiscriminatory enforcement. But the doctrine of nondiscriminatory enforcement of a law has never been limited to nullifying the effects of the law. Indeed, a Maryland case, extensively quoted in Yick Wo, concerned the invalidation of an ordinance granting unrestrained power to the city government to issue permits for boilers. Baltimore, etc. v. Radecke, 49 Md. 217. City of New Orleans v. Palmisano.

In sum, some laws may never win constitutional approbation, because they have no rational relation to a legitimate governmental objective and because the unrestrained discretion without standards, they grant an officeholder makes them incurably subjective, unreasonable, and incapable of equal enforcement. The understanding and interpretation test is such a law.[89] Although the vote-abridging purpose and effect of the test

89. A keen student of the South and the acknowledged leading authority in the field of Southern politics writes: "Tests supplementary to literacy—ability to understand, explain, or interpret the constitution— * * * [b]orn of a union of constitutional fraud and political ineptitude * * * must in their nature be cloaks for the arbitrary exclusion of voters or tests for the possession of useless knowledge. * * * [I]f any test of understanding were applied at all to any substantial number of citizens of status, the registrars would be hanged

render it *per se* invalid under the Fifteenth Amendment, it is also *per se* invalid under the Fourteenth Amendment. The vices cannot be cured by an injunction enjoining its unfair application. The necessary relief, therefore, is to declare the test invalid and enjoin its enforcement in Louisiana.

## VII.

We come now to consideration of the new citizenship test.

By resolution of August 3, 1962, in compliance with Act 62 of 1962,[90] the State Board of Registration adopted a voter-qualification test, apparently tailored to fit this case should the interpretation test be held unconstitutional. The resolution and the statute do not, and could not, affect the constitutionality of the interpretation test. That test is still the law of the State; so there is no question of mootness. The new requirement rests on an understanding and interpretation of the Constitution of the United States as a whole. The statute requires the Board to prepare "an objective test of citizenship". The Board in its resolution of August third directed the registrars to use the new test, pointing out that Louisiana law prescribes as one of the qualifications for registration that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government". This qualification has been in the Constitution, unimplemented, since 1898.

The Board's "Instructions to registrars" require an applicant to draw one of ten cards. Each card has six multiple-choice questions, four of which the applicant must answer correctly. There are a total of forty-three different questions in various combinations. This test is considerably more difficult than the "tests" administered to white applicants in the past, in that it requires a comprehension of the theory of the American system of government and a knowledge of specific constitutional provisions.[91] The sort of answers shown by the evidence to have been accepted in the past from white applicants would be unacceptable now under a fair administration of the test. Considering Louisiana's unhappy position as the State with the highest rate of illiteracy and the lowest percentage of citizens with a high school education, the citizenship test can be regarded as a step forward only by those in favor of a severely limited representative government of guardians elected by a small, elite electorate.

to the nearest lamp post and no grand jury could be found that would return a true bill. Suffrage requirements that cannot be made at least to appear nondiscriminatory in their application will sooner or later fall before the constitutional ban on racial discrimination." Key, Southern Politics 577 (1949).

90. Act 62 of 1962 amended LSA-R.S. 18:191 to provide that the Board of Registrars "shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government * * *." A constitutional amendment to the same effect was adopted at the state-wide general election held on November 6, 1962.

The provisions in the Louisiana Constitution and statutes setting out the interpretation test as a requirement for voter registration remain unchanged. The new constitutional provision amends Article VIII, section 18 while the interpretation test is found in Article VIII, section 1(d); the statutory change adds the new requirement to LSA-R.S. 18:191, leaving untouched LSA-R.S. 18:25, the provision containing the test under attack.

91. These are some of the questions. No. 2: "Limits are placed on the right to vote by the (a) National Government (b) States (c) Courts." No. 14: "The Articles of Confederation are (a) the Constitution we now have (b) a plan for State government (c) an early plan of government for the original 13 States". No. 16: "Our Constitution has been changed (a) by the President (b) by the Congress and the people (c) by the Supreme Court". No. 35: "The United States Supreme Court is made up of (a) 9 Justices (b) 6 Justices (c) 5 Justices.

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It is no small constitutional problem to define "a republican form of government" and determine if the Board's new test measures fairly an applicant's understanding of the "duties and obligations of citizenship under a republican form of government." The Supreme Court had trouble defining a "republican form of government", or so it seemed to say.[92] We reserve judgment therefore on the constitutionality of the new examination. Although we need not pass on the constitutionality of the "citizenship test" itself, we must consider the constitutional effect of this new action on those who have been discriminated against in the past. The object of this suit is not only to prevent future injustices but to rectify past injustices.

In the twenty-one parishes which used the interpretation test, there are few Negroes registered. In all of the parishes this is a result of the policy of initially registering as many white persons and as few Negroes as possible. In some of the parishes it is also a result of past discrimination in purging the rolls of Negro but not white registrants, as a first step; and, as a second step, preventing the re-registration of Negroes (but not white applicants) by an arbitrary administration of the interpretation test. Moreover, we cannot overlook the inhibiting effect of discriminatory registration practices on Negroes everywhere in Louisiana who would otherwise have tried to register.

A major change in the standards of voting qualifications is usually followed by a general re-registration of all voters. This practice prevents previously registered voters, who are unacceptable under the new standards, from remaining on the rolls while those with equal or superior qualifications are denied suffrage. Thus, complete re-registration was used in 1898 to wipe clean the rolls and prevent the re-registration of Negroes under the new standards. Similarly, when the qualifications were formally altered in 1921, the State required the re-registration of all voters. Except in the parishes with periodic registration, there has been no complete re-registration since the interpretation test was resurrected in the middle fifties. In no parish has there been re-registration since the introduction of the new test. Of course, general re-registration would in large measure destroy the continuing usefulness of the past discriminations designed to keep Negroes off of the registration rolls. Yet the new test, or any other procedure more demanding than those previously applied to the white applicants, will have the effect of perpetuating the differences created by the discriminatory practices of the past; most of the potential white voters are on the rolls but few if any of the potential Negro voters are on the rolls. As in *Gomillion v. Lightfoot* and *Lane v. Wilson*, the necessary effect of the new law, regardless of its fair facade, is built-in unconstitutional discrimination.

The cessation of prior discriminatory practices cannot justify the imposition of new and onerous requirements, theoretically applicable to all, but practically affecting primarily those who bore the brunt of previous discrimination. An appropriate remedy therefore should undo the results of past discrimination as well as prevent future inequality of treatment. A court of equity is not powerless to eradicate the effects of former discrimination. If it were, the State could seal into permanent existence the injustices of the past.

A good example of the principle that the abolition of one variety of discrimination does not justify the imposition of another is *Lane v. Wilson*. After the Supreme Court in *Guinn* struck the grandfather clause from the Oklahoma

92. Pacific States Tel. & Tel. Co. v. Oregon, 1912, 223 U.S. 118, 32 S.Ct. 224, 56 L.Ed. 377. See also Minor v. Happersett, 1874, 21 Wall. 162, 88 U.S. 162, 22 L.Ed. 627; Texas v. White, 1868, 7 Wall. 700, 74 U.S. 700, 19 L.Ed. 227; Luther v. Borden, 1849, 7 How. 1, 48 U.S. 1, 12 L.Ed. 581; The Federalist 49 (Editor's Introduction; Wright Ed. 1961).

Constitution, Oklahoma required all qualified persons not registered at a time when that clause was in effect to register within twelve days or be permanently disenfranchised. Most of the eligible whites were already registered but most eligible Negroes were not. In declaring unconstitutional the second Oklahoma attempt to bar Negroes from the ballot box, the Supreme Court said:

> "Exemption from this onerous provision was enjoyed by all who had registered in 1914. But this registration was held under the statute which was condemned in the Guinn case. Unfair discrimination was thus retained by automatically granting voting privileges for life to the white citizens whom the constitutional 'grandfather clause' had sheltered while subjecting colored citizens to a new burden." 307 U.S. 276, 59 S.Ct. 876, 83 L.Ed. 1281.

In *Guinn* and *Lane* no past wrongdoing could be imputed to the State because denial of the suffrage to Negroes was legal before 1866—the "freezing" date. The instant case cries louder for relief because the citizenship tests freeze the results of past *illegal* practices.

Recently, in Mississippi, a sheriff, as an ex-officio poll tax collector, had instituted a new policy requiring that individuals paying the poll tax for the first time see him personally. He maintained two offices and was seldom at either office. Speaking for the Fifth Circuit, Judge Bootle, sitting by designation, declared:

> "This new policy, while purporting to apply to Negroes and whites indiscriminately, actually operates to the disadvantage of Negroes on account of their race, as did the previous instruction. Substantially all of the 5,099 white persons of voting age who were liable to pay a poll tax have been permitted to do so while not one of the County's 6,483 Negroes of voting age has been listed as paying the tax. Obviously a blanket requirement that all persons who have never paid the poll tax before, that being a relatively small percentage of white people and all Negroes, who now desire to pay their poll tax for the first time must see the Sheriff personally operates unequally and discriminatorily against the Negroes. * * * Sheriff Dogan's new instructions by necessary result re-creates and perpetuates the very discrimination which prevailed under his former instructions and practices." United States v. Dogan, 1963, 5 Cir. 314 F.2d 767.

In United States v. Atkins, 1963, 5 Cir., 323 F.2d 733, the Court of Appeals for this Circuit, recently quoted Dogan with approval on freezing although it declined to apply the principle:

> "We do not dispute the power of the federal courts to invoke the freezing principle to give relief when necessary. It has been used before in voting cases. * * *"

Insofar as freezing is concerned, *Atkins* is distinguishable from the instant case on the facts and on the relief sought. In *Atkins*, the Court of Appeals noted that (1) it would be feasible to purge the registration lists in Dallas County of "those persons proved by the appellant to have been registered by a procedure which does not meet the minimal requirements of State law"; (2) "[t]he procedure of the Registrars which would have the greatest freezing effect was the practice of not allowing rejected applicants to reapply", a practice the district court has now eliminated; (3) "other [discriminatory] practices soon will be eliminated"; (4) "The only remaining freezing effect could come as a result of differences of practices allowable within the zone of permissible interpretation of Alabama law", but "[w]here * * * or how strictly the Board will interpret Alabama law, is yet to be determined". In *Atkins*, the United States asked the Court to order the Board of Registrars "to register Negroes in the future who possess the qualifications required of whites during the period 1952–1960".

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The Court objected to making "a permanent fixture in Dallas County" of practices violative of state law. Here, as will be developed later in the opinion, the relief does not have such an effect and is restricted in its application. Moreover, *Atkins* was a "pattern and practice" case under Section 1971 in which the district court held that the current Board of Registrars had not discriminated against Negroes, a finding undisturbed by the Court of Appeals. Finally, in *Atkins*, the question was whether a Board of Registrars should be required to violate a *valid* state law in the future because predecessor boards of that county had violated the *same* law in the past; here, the issue as to the citizenship test is whether a state may raise the standards for registration by enacting a new law which has the inevitable effect of freezing discrimination under an *unconstitutional* prior law. *A fortiori*, *Lane v. Wilson* squarely covers the case before this Court.

In United States v. Lynd, 5 Cir. 1962, 301 F.2d 818, cert. den'd, 1963, 371 U.S. 893, 83 S.Ct. 187, 9 L.Ed.2d 125, the Court entered a temporary injunction, pending appeal, restraining a Registrar from

> "* * * failing or refusing to give to Negro applicants the same privileges as to reviewing their application forms at the time they are filled out and advising Negro applicants of such omissions as appear on their forms as they are now *or heretofore have given to white* applicants under similar circumstances * * *." (Emphasis added.)

After this injunction pending appeal was issued, the Mississippi Legislature amended Section 3215 of the Mississippi Code to make mandatory the requirement that applicants fill out their application form without assistance. The amendment adds the requirement that no application can be approved or applicant registered unless all the blanks on the form are "properly and responsively" filled out by the applicant. July 15, 1963, the Court extended the injunction, pending further proceedings in the District Court, and held the defendant in civil contempt. The Court's two orders of July 15, 1963, restrained the defendant in precisely the same language as that quoted above.

Again, in United States v. Penton, M.D.Ala.1962, 212 F.Supp. 193 the district court found that while prior to February 1961, the Board of Registrars of Montgomery County, Alabama, had not required perfection in completing the application form, as of that date "the Board raised the standard to require a perfect application." 212 F.Supp. at 197. During the earlier period the Board had used the application form "as a tricky examination or test" for Negroes only, and "[i]f a Negro applicant failed to meet the standard required of him, he was denied registration regardless of whether the error or omission on the form was formal, technical, or inconsequential." White applicants, unlike Negroes, had been assisted in manifold ways. With respect to past and future Negro applicants, Judge Johnson applied "standards consistent with past practices." Id. at 200 of 212 F.Supp. *He enjoined the defendants "from using * * * different and more stringent qualification requirements for registration * * * than * * * [those] used by the Board * * since at least January 1, 1956."* United States v. Penton, (M.D.Ala., 1962), 212 F.Supp. 193.

Ross v. Dyer, 5 Cir. 1962, 312 F.2d 191, presented an analogous situation. The Court had before it the brother-and-sister rule of the Houston public school system, a long-standing rule requiring a child to attend the school which his older siblings attended. The rule was one "of long standing applied to white and Negroes alike". This Court observed:

> "On the basis of the evidence which showed it to be a rule of long standing applied to white and Negroes alike, the District Judge in his memorandum opinion reasoned that 'the colored plaintiffs do not seek the same treatment as is afforded white

students, to which they are entitled; in fact, they seek a different, and superior, treatment, by reason of their race. The law does not grant them this.' But we think that logic alone is insufficient to overcome the practical effect of this rule which as to some Negro families perpetuates a segregated system despite the plain purpose of the stair-step plan to ameliorate it. That it applies equally to white and Negro overlooks the fact that as to one group, *compulsory attendance at certain schools has been the result of unconstitutional discrimination. The purpose of the court decree is to eradicate that unconstitutional deprivation of equal protection, no matter how felt or manifested.*" (Emphasis added.)

In insisting that registrars not apply now to Negroes a difficult test which was never applied to white registrants, there is no more compulsion of state officials to violate state law here than there was in *Yick Wo*. Enforcement of the citizenship test at this point would be just as discriminatory against Negroes as enforcement of the San Francisco licensing ordinance directed against Chinese laundrymen would have been in *Yick Wo*. The validity of the ordinance requiring a license for a laundry operated in a wooden building could be asserted only after a relicensing of all laundries on a nondiscriminatory basis. Allowing white laundrymen who had been favored in the past to remain licensed would have perpetuated the discrimination. Thus, although the application of the ordinance was enjoined, the ordinance itself was unconstitutional in the sense that its enforcement had the necessary effect of violating the constitution until the State revoked all outstanding licenses and thereafter issued new licenses nondiscriminatorily.[92] So it is here.

[24] In short, the obligation of the State to abolish its system of racial discrimination in voting registration is not met simply by a process of applying new and higher standards to all future applicants. The new tests discriminate against Negroes of voting age by subjecting them to standards to which the registered applicants (most of whom are white) were not subjected. The promise of evenhanded justice in the future does not bind our hands in undoing past injustices.

## VIII.

This brings us to the question of fashioning the necessary remedy.

[25] The power of Congress to adopt Civil Rights measures for protection of the electoral process against debasement by discrimination is expressly granted in the Fifteenth and Fourteenth Amendments. It is no housekeeping power. The sweep of the "appropriate legislation" clause is no less than the sweep of the "necessary and proper" clause. The protection of the right to vote, without regard to race, is important to the individual, but the Nation has the paramount interest in the integrity of the electoral process. These considerations argue against a grudging, narrow remedy. So that the will of Congress will be clear to the courts, Section 1971(e) expressly states:

> "This subsection shall in no way be construed as a limitation upon the existing powers of the court."

Thus, in addition to the specific remedy provided in the Civil Rights Act, courts retain an undiminished authority to grant suitable equitable relief that will both rectify past inequities now, without delay, and will prevent future inequities. See State of Alabama v. United States, 5 Cir. 1962, 304 F.2d 583, aff'd 1962, 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed.2d 112.

Remedies suited to past litigation are not appropriate here for several reasons. (1) It is impracticable, if not impossible, and in any event it would create hardships, generate endless litigation, and

92. See Comment, The Federal Voting Referee Plan, 72 Yale L.Jour. 770, 782-84 (1963).

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dislocate registration offices, if a wholesale attempt were made to purge the rolls of white persons improperly registered. (2) It would be extremely difficult to establish who was unconstitutionally purged for failing to take the interpretation test. (3) It would be next to impossible to establish which qualified Negroes were rejected for failure to understand or interpret a constitutional provision to the satisfaction of the registrar, because in many parishes inadequate records are maintained by the registrars. (4) It is completely impossible to ascertain how many and which qualified Negroes were deterred from seeking registration, knowing that they had no chance of succeeding, since other qualified Negroes were kept off the rolls by the practice of racial discrimination. In many respects, the last factor is the most important:

> "Discrimination by a registrar is especially harmful because it is the most effective method for denying the right to vote: it denies the right to vote before an individual has the chance to exercise it, and it bars not only the individual concerned from all elections but inhibits other qualified voters from running the guantlet of discriminatory and humiliating practices by a registrar and his deputies." United States v. Manning, W. D.La.1963, 215 F.Supp. 272, 288.

[26] A nondiscriminatory re-registration of all voters in the State would be the only completely fair and effective means of clearing away the effect of the interpretation test and of applying the new citizenship test. In a general registration the State could require any new, reasonable, non-discriminatory qualifications. However, this Court adheres to the principle that only to the extent clearly necessary should federal courts interfere with established state and local procedures. Accordingly, *as to the citizenship test*, we restrict our order to the twenty-one parishes in which the interpretation test was used and we cast our order so as to afford an option to the State. In any of the twenty-one parishes where the interpretation test was used, there need be no general re-registration. However, until there is a general re-registration of all voters in a parish where the test was used, or until the discriminatory effect of the test has been vitiated to the satisfaction of the court, we enjoin the use of the citizenship test. We narrow our order further, in the interest of equalizing the qualifications for registering, by restricting the injunction against the use of the citizenship test to the registration of those persons who were of voting age and who had the required residence in the parish prior to August 8, 1962; that is the period in which they were exposed to discrimination.

This is a suit in equity. Its purpose is not to punish Louisiana for past activities. Such a purpose would be presumptuous on the part of the Court and offensive to principles of American federalism. Neither is it merely to prevent continued enforcement of unconstitutional provisions of Louisiana law. The prime purpose is to provide a remedy for a *federally* protected right by giving equitable relief: opening the rolls for those to whom the rolls were illegally closed, those who were directly discriminated against by rejection of their applications and those who were inhibited from attempting to register because of known humiliating discriminatory practices of registrars. Finally, we repeat that this decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting. Our order forbids enforcement of the citizenship test until Negro applicants can be judged by the same standards used in qualifying those persons already registered. In that sense the court is cooperating with the State in laying a predicate for the fair application of a voting qualification which the State is now endeavoring to convert into an objective test with ascertainable, although unusually high, standards.

## IX.

We summarize our holding. The Court holds that the interpretation test is un-

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constitutional because of its unlawful purpose, operation, and inescapably discriminatory effect. We enjoin its use in Louisiana To make this decree effective and to exorcise past discrimination, the Court enjoins the use of the "citizenship test" in the Parishes of Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn as to all persons of voting age who had the requisite residence in the parish before August 3, 1962. These are parishes where the registrars used the interpretation test. We enjoin the use of the citizenship test in the named parishes until there has been a general re-registration of all voters in a named parish, or until it has been shown, to the satisfaction of the court, that the interpretation test has lost its discriminatory effect in the parish.

This Court retains jurisdiction for the purpose of allowing the United States to prove and the State to disprove that the interpretation test was used in any of the forty-three parishes not named in the Court's decree, *and for other purposes.*

Formal findings of fact and conclusions of law will be entered at a later date.

WEST, District Judge (dissenting).

I respectfully dissent. Reasons to be assigned.

## West, District Judge (dissenting) —December 31, 1963

When the majority decision was filed in this case, I announced that I dissented and would assign reasons therefor. This Three Judge Court originally had before it only the question of the constitutionality of Louisiana's constitutional interpretation test, LSA–Const. of 1921, Art. VIII, Sec. 1(d) and LSA–R.S. Title 18, Sec. 35, as used to determine voter qualifications. After this matter had been briefed and submitted, the Government suddenly injected another issue, i. e., the question of the constitutionality of Louisiana's new citizenship test, LSA–R.S. 18:191, as amended by Act 62 of 1962, as a State qualification for voting. I objected to the Court's considering the question of the constitutionality of the new citizenship test on the grounds that no "case or controversy" had arisen thereunder, and that therefore, the question of its constitutionality was not properly before the Court at this time. However, the majority of the Court decided otherwise, and has now held that the constitutional interpretation test, as provided for in Art. VIII, Sec. 1(d) of the La.Const., and in LSA–R.S. Title 18, Sec. 35, is "*per se* invalid under the Fifteenth Amendment", and that "it is also *per se* invalid under the Fourteenth Amendment". The majority further holds that "[t]he vices cannot be cured by an injunction enjoining its unfair application". As to the lately injected issue concerning the constitutionality of the citizenship test, the majority specifically state that "[T]his decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting", but then proceed to forbid the enforcement or use of that test until the State "satisfies this Court" that what it considers "errors of the past" have been corrected.

The majority opinion, including footnotes, comprises some 93 mimeographed pages, most of which is completely immaterial to a decision of this case. When the majority of the Court finds that the constitutional interpretation test is "*per se* invalid", there is, of course, no reason to delve into the past history and usage of the test. For an act to be "*per se*" invalid, it must be invalid in itself; it must be invalid when taken alone; it must be inherently invalid; and it must be invalid in itself without reference to other matters. See Black's Law Dictionary, Fourth Edition. Consequently, if the act is, as the majority holds, invalid *per se*, then it must be invalid on its face, and in itself, and thus the question of the method of its administration is wholly immaterial.

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That the constitutional interpretation test used by Louisiana is not, however, "per se invalid" becomes quite clear when viewed in light of prior holdings of the United States Supreme Court. It is sometimes difficult to decide whether to rely on the law as the Supreme Court interpreted it a few years ago, or to rely on it as interpreted last week, or to speculate on how they might interpret it tomorrow. However, in this instance, relative to a citizen's right of suffrage, I prefer to believe the law to be as interpreted by the United States Supreme Court on many occasions in the past. In rejecting the proposition that the Fourteenth Amendment added the right to vote to the privileges and immunities of citizenship, the Supreme Court, in Minor v. Happersett, 21 Wall. 162, 177, 88 U.S. 162, 177, 22 L.Ed. 627, said:

> "Certainly, if the Courts can consider any question settled, this one is. For nearly 90 years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uniform practice, long continued, can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done here. Our province is to decide what the law is, not to declare what it should be."

Then, in United States v. Reese, 92 U.S. 214, 23 L.Ed. 563, 564, in disposing of the argument that the right to vote was conferred by the Fifteenth Amendment to the United States Constitution, the Supreme Court said:

> "The Fifteenth Amendment does not confer the right of suffrage upon anyone."

And then, in McPherson v. Blacker, 146 U.S. 1, 39, 13 S.Ct. 3, 36 L.Ed. 869, the United States Supreme Court once more recognized the fact that it was within the province of the State, and not the Federal Government, to determine voter qualifications. In the course of its opinion, it said:

> "The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State."

In a long line of unbroken jurisprudence beginning in 1874, the United States Supreme Court has consistently recognized that the privilege of voting is conferred upon citizens by the States, and that the United States Constitution does not confer upon anyone the privilege of suffrage. In Pope v. Williams, 193 U.S. 621, 632, 24 S.Ct. 573, 575, 48 L.Ed. 817, the Court said:

> "The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. * * * It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States."

Therefore, insofar as the majority opinion seems to indicate that somehow, the right to vote is guaranteed by the United States Constitution, I respectfully suggest that the majority is in error. In view of the fact that the privilege of voting emanates entirely from the States, and not from the Federal Government, and in view of the fact that the judicial function is properly exercised only by indicating whether or not the State has transcended provisions of the Federal Constitution, it follows, just as the night follows the day, that the role of the Federal Court is not to direct the State in the procedures to be used in registering voters. The Supreme Court has held that the "conditions under which the right of suffrage may be exercised" lies with the States. Lassiter v. Northampton Board of Elections, 360 U.S. 45, 50, 79 S.Ct. 985, 989, 3 L.Ed.2d 1072.

The majority opinion is so lengthy, and involves so many extra-judicial dis-

courses, that it is rather difficult to determine whether it holds that the State constitutional provision and the State Statute establishing the constitutional interpretation test are unconstitutional in themselves, or whether it holds merely that these State laws have been unconstitutionally administered. I must conclude, however, that the majority intended to hold, as they stated near the close of their opinion, that the constitutional interpretation test is "*per se* invalid under the Fifteenth Amendment, and it is also *per se* invalid under the Fourteenth Amendment" of the United States Constitution. This being the case, the prior history of voting requirements in Louisiana, as discussed at great length in the majority opinion, is completely immaterial. If these laws are invalid *per se*, then it matters not how they were administered. No method of administration could validate a law which is invalid *per se*. If, however, the majority intended to hold, contrary to their specific statement concerning invalidity *per se*, that the test is unconstitutional because of improper application, then, in view of their ultimate order in connection with the State's use of the new citizenship test, it is difficult to understand why they did not merely enjoin the improper application of the constitutional interpretation test in the twenty-one Parishes where they found that it had been improperly applied. As will later be noted, they had no hesitancy in dividing the State into sections and holding that the new citizenship test may be applied in some Parishes of the State while it may not be applied in other Parishes. In line with this reasoning, if the constitutional interpretation test is bad only because of its improper use, then the improper use should have been enjoined only in the twenty-one Parishes where it had been improperly applied, and the remaining Parishes of the State should not have been interfered with in their use of that test. If, as stated by the majority, they actually found that the constitutional interpretation test was "invalid per se", they need only to have said so, and then, the application thereof becomes completely irrelevant because as heretofore pointed out, there is no way that an unconstitutional statute may be constitutionally applied. On the other hand, if the statute itself is per se constitutional, then I cannot agree that the "vices cannot be cured by an injunction enjoining its unfair application". I believe that a Court should be most reluctant to declare unconstitutional the statutes and constitutional provisions of a State, and should do so only when the statute and/or the constitutional provision involved is clearly in contravention of the United States Constitution. In Cummings v. Merchants National Bank, 101 U.S. 153, 25 L.Ed. 903, the United States Supreme Court held that a law is not to be held unconstitutional merely because of unfaithful administration. It held that a statute, valid as to one set of facts, may be invalid as to another. That is, its application may be valid or its application may be invalid, notwithstanding the constitutionality of the statute itself. In Kansas City Southern Ry. Co. v. Anderson, 233 U.S. 325, 34 S.Ct. 599, 58 L.Ed. 983, the Supreme Court considered and strongly rejected the contention that to hold that a statute has been unconstitutionally applied under one specific set of facts is tantamount to holding that the statute itself is invalid.

I must therefore respectfully disagree with both the findings and the conclusions of the majority insofar as the validity of the constitutional interpretation test as used in the State of Louisiana is concerned. While it may well be that there have been many instances of improper applications of that test, nevertheless, such improper applications do not, in my opinion, render the laws themselves unconstitutional. If, as I believe to be the case, the constitutional interpretation test is not unconstitutional per se, then only the improper application of the test should have been enjoined. I prefer to believe that the

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Supreme Court of the United States meant what it said in the cases which I have cited, and in the many, many other cases that might have been cited to the same effect, namely, that the right remains with the States to decide and declare the requirements for voter registration. I prefer to believe that the function of the Court is merely to decide, in each specific case, whether or not the State has transcended the prohibitions contained in the United States Constitution, and if such is found to be the case, to order, by injunction, if necessary, the termination of such discriminatory practices. I do not believe that it is a proper function of the Court to establish by decree the qualification requirements of voters in the State of Louisiana. That, in my opinion, is precisely what the majority of the Court in this case does.

After concluding that the constitutional interpretation test is "invalid per se", the majority then proceed to a consideration of the validity of the new citizenship test, despite the fact that there were no allegations, nor could there be, that the citizenship test was either unconstitutional or improperly applied. Indeed, the majority specifically states that it does not "touch upon the constitutionality of the citizenship test as a state qualification for voting", but then proceeds to prohibit its use in twenty-one Parishes in the State of Louisiana. It is too elementary to require citation of authority that a statute properly passed by a State Legislature is presumed to be constitutional until such time as it is found to be unconstitutional. This Court has not found the citizenship test to be unconstitutional, and thus, it must, of course, be presumed to be constitutional. If the test is, in fact, constitutional, as it must be considered to be in light of the Court's failure to find it unconstitutional, then, it is a complete mystery to me where the Court finds its authority to enjoin its use. If the majority has found that the constitutional interpretation test is unconstitutional because of its improper use, a conclusion with which I strenuously disagree, then by the same token, I suppose, they could have found that the citizenship test is unconstitutional because of improper use. However, the Court does not find that the citizenship test has been improperly used, and in fact, they have not found it to be unconstitutional in any way whatsoever. Nevertheless, in spite of this fact, the majority takes the position that the use of this new test in the twenty-one Parishes where they considered the constitutional interpretation test to have been improperly applied, would result in continued discrimination unless all voters were purged from the rolls and a complete new re-registration of all voters, using the new citizenship test, were accomplished. The majority decrees that the new citizenship test may not be used "until the discriminatory effect of the test has been vitiated to the satisfaction of the court". In other words, it would seem that in order to comply with this order, the new citizenship test, even though constitutional in every respect, may not be used until the case of every single voter on the rolls in tweny-one Parishes has been submitted to the Court for a determination of whether or not each individual voter has been properly registered to vote, without discrimination. I simply cannot agree that this is a function properly within the ambit of the authority of this Court. Anyone has a right to claim discrimination, and when discrimination has been claimed, he has a right to his day in court. But until such a case or controversy has been presented, the Court simply has no right to intervene. The majority opinion states: "The ordered society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualifications of voters, it has enacted 'not a law, but an attempt to make the arbiter in such a case the law in himself.'" The majority opinion would merely refuse to allow the registrar to be "a law in him-

self", and substitute, in his stead, this Court. This opinion can have no other effect than the taking over by this Court of the functions of the State when it comes to determining the qualifications required for voter privileges. The majority opinion further states: "[T]his Court adheres to the principle that only to the extent clearly necessary should federal courts interfere with established state and local procedures." I can only say that if the majority means what it says in this statement, it must surely have failed to read its own opinion. The majority opinion says, in effect, that whenever a State wishes to alter or improve its voting requirements, it may do so only if it has a complete re-registration of everyone on the rolls throughout the entire State. This proposition has been rejected by the Fifth Circuit Court of Appeals in United States v. Atkins, et al., 323 F.2d 733 (1963). The majority opinion attempts to distinguish the present case from the Atkins case, but in my opinion fails completely to do so. The Atkins case specifically rejects the proposition that a State may not alter its voting requirements without re-registering all voters in the State. They try to distinguish Atkins on the grounds that in that case the question was whether a Board of Registrars should be required to violate a *valid* State law in the future because a predecessor board of that county had violated the *same law* in the past. They then go on to say that the difference between that case and the present case is that the issue here is whether a State may raise the standards for registration by enacting a new law which has the necessary, inescapable effect of freezing discrimination under an *unconstitutional* prior law. They fail to recognize the fact that the law establishing the constitutional interpretation test used by the State of Louisiana and under which the majority now holds there were instances of discrimination, was not an "unconstitutional law" until this present decision was handed down. The very same law had been specifically held to be constitutional in the case of Trudeau v. Barnes, 65 F.2d 563 (C.A.5 1933). All action by the State of Louisiana taken pursuant to that law was, prior to the filing of this decision, taken pursuant to a statute which the Federal Court, Fifth Circuit, had specifically held to be constitutional. In the Trudeau case the Court said:

> "It is at once apparent that the clause of the State Constitution which is under attack applies to all voters alike, denies to none of them the equal protection of the laws, does not undertake to deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude. It is difficult to conceive how this clause can be said to violate either the Fourteenth or the Fifteenth Amendment. It lays down but one test, that of intelligence, which applies uniformly and without discrimination to voters of every race and color. * * * The Louisiana Constitution protects every citizen who desires to register from being arbitrarily denied that right by the registrar of voters by giving the applicant a right to apply without delay and without expense to himself to the trial court for relief, to submit his qualifications to vote to a jury, and to have them finally passed upon by an appellate court. It is idle to say that the defendant as registrar had the arbitrary power to deny plaintiff the right to vote. We cannot say, and refuse to assume, that, if the plaintiff had pursued the administrative remedy that was open to him, he would not have received any relief to which he was entitled. * * *"

Consequently, the distinction attempted to be drawn by the majority to distinguish the Atkins case is simply not valid. The effect of the majority order in this case, that the State of Louisiana may not use the new citizenship test in the twenty-one Parishes involved, is to order the State to violate an existing, valid law un-

til this Court tells them that they need no longer violate it. The citizenship test, as of now, is valid and has not been held invalid by any court, including this one. Therefore, for this Court now to order the State to refrain from using that test is to order them to violate a valid existing law of the State of Louisiana. In my judgment, the opinion of the majority in this case is just another example of the "personal decreeing" so bitterly criticized by Judge Hutcheson in his dissenting opinion in Lee v. United States of America, (1963), 5 Cir., 322 F.2d 770. I concur completely with the remarks of Judge Hutcheson contained therein.

In brief, I cannot sanction the take over by this Court of the functions of the State whereby this Court attempts to establish, and administer, as well as to adjudicate the State laws relative to voter registration. I believe that this Court should confine its activities to the judicial determination of cases and controversies as obviously contemplated by the limited jurisdictional grant contained in the United States Constitution.

I can do no more than to concur with Judge Bell's dissent in Davis v. Board of School Commissioners of Mobile County, 322 F.2d 356, 362 (C.A.5 1963), when he said: "Therefore, I must dissent * * with the admonition that more constitutional rights will be lost than gained in the long run by departure from procedures which have stood the test of time, and which are a part of due process of law as we have heretofore known it," and to concur with Judge Cameron's dissent in Sharp v. Lucky, 252 F.2d 910, 924 (C.A.5 1958), wherein he said: "This sad epoch in our history [post Civil War] was fomented in no small part, by well-intentioned men in too much of a hurry."

I must, for these reasons, respectfully dissent.

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PLAINTIFF'S EXHIBIT NO. 6A

**RESOLUTION**

**OF THE**

**STATE BOARD OF REGISTRATION**

**WHEREAS**, the 1960 constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all state laws relative to the registration of voters; and,

**WHEREAS**, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state.

**NOW, THEREFORE, BE IT RESOLVED** by the State Board of Registration that, in order to have uniform application of the state voter qualification laws in all parishes of the state, the attached standard forms, numbered one through eleven for identification herewith, be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the state are hereby required to use such forms in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

**BE IT FURTHER RESOLVED** that copies of said forms and instructions to parish Registrars of Voters to comply with the state voter

Secretary of State
Received & filed
10/10/61
D.K. Kellam

[fol. 173b]

qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

CERTIFICATE

We, the undersigned members of the State Board of Registration, created and constituted by Article VIII, Section 18, of the Constitution of Louisiana, as last amended pursuant to Act 622 of 1960, do hereby certify that the above and foregoing Resolution was duly adopted at a meeting of said Board of Registration held at the State Capitol Building in the Parish of East Baton Rouge, State of Louisiana, on the 10th day of October, 1961, at which the undersigned members of said Board of Registration were present and voting.

THUS DONE AND SIGNED at the State Capitol Building in Baton Rouge, Louisiana, on this the 10th day of October, 1961.

Governor

Lieutenant Governor

Speaker of the House of Representatives

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 1

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

Nor shall any vested rights be divested, unless for purpose of public utility, and for just and adequate compensation previously paid (Art. 4, Sec. 15, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the.....Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:.....196.....

.....
Applicant for Registration

Ward.....Precinct.....Address.....

(Over)

[fol. 173d]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

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## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 2

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The United States shall guarantee to every state in this Union a republican form of government, (U. S. Const. Art. IV Sec. 4).

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people (U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press, (Art. 1 No. 8 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: _____ 196____. _____
Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

[fol. 173f]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 3

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, (U. S. Const. 1st. Amendment)

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 8, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:_____196____. _____

Applicant for Registration

Ward_____Precinct_____Address_____

(Over)

[fol. 173h]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 4

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated (U. S. Const. 4th Amendment)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the.....Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:.....196.....

_____
Applicant for Registration

Ward.....Precinct.....Address.....

(Over)

[fol. 173i]

[fol. 173j]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

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## CONSTITUTIONAL TESTS FOR REGISTRATION

Form No. 5

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 8, La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: _____ 196____ _____

Applicant for Registration

Ward_____ Precinct_____ Address_____

(Over)

[fol. 173k]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 805 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 805 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION

Form No 6

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people
(U. S. Const. 10th Amendment)

No law shall be passed to curtail or restrain the liberty of speech or of the press,
(Art. 1 No. 8 La. Const.)

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

(The above qualification test and a registration application form provided for by Act 385 of 1960, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:_____196____ _____
Applicant for Registration

Ward_____Precinct_____Address_____

(Over)

[fol. 173n]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

---

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 385 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 385 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 7

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Nor shall any state deprive any person of life, liberty, or property, without due process of law (U. S. Const. 14th Amendment)

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty (Art. 1, Sec. 3, La. Const.)

No person shall be compelled to give evidence against himself in a criminal case (Art. 1 Sec. 11 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: _____ 196____ _____

Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

[fol. 173p]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 8

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

No person shall be deprived of life, liberty or property, except by due process of law. (Art. 1, Sec. 2 La. Const.)

The Legislature shall provide by law for change of venue in civil and criminal cases (Art. 7 Sec. 45 La. Const.)

The military shall be in subordination to the civil power (Art. 1 Sec. 4 La. Const.)

(The above qualification test and a registration application form provided for by Act 395 of 1960, (Form LR-1), were received by me from the_____Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:_____196____. _____

Applicant for Registration

Ward_____Precinct_____Address_____ 173

(Over)

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 9

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

All legislative powers herein granted shall be vested in a Congress of the United States, (U. S. Const. Art. 1 No. 1)

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the congress may from time to time ordain and establish (U. S. Const. Art. III Sec. 1)

The people have the right peaceably to assemble (Art. 1 Sec. 5 La. Const.)

(The above qualification test and a registration application form provided for by Act 305 of 1960, (Form LR-1), were received by me from the.....Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date:.....196.....

_____
Applicant for Registration

Ward.....Precinct.....Address.....

(Over)

[fol. 173t]

## LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

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## STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 395 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 15, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard form be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 395 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

## CONSTITUTIONAL TESTS FOR REGISTRATION Form No. 10

From preamble to U. S. Constitution, written by applicant at Registrar's dictation:

_____

_____

Applicant shall read to the Registrar of Voters and give a reasonable interpretation in writing below of the following clauses of the Constitutions:

Every person has the natural right to worship God according to the dictates of his own conscience. (Art. 1 Sec. 4, La. Const.)

No function shall ever be attached to any court of record, or to the judges thereof except such as are judicial (Art. 7 Sec. 3 La. Const.)

Perpetual franchises or privileges shall not be granted to any person or corporation by the State or by any political subdivision there of (Art. 13 Sec. 7 La. Const.)

(The above qualification test and a registration application form provided for by Act 385 of 1960, (Form LR-1), were received by me from the _____ Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgment and identification with my application to register.)

Date: _____ 196__. _____

Applicant for Registration

Ward _____ Precinct _____ Address _____

(Over)

[fol. 173a]

[fol. 173v]

# LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., and shall be able to understand and give a reasonable interpretation of any section of the Constitution of the State or of the U. S., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

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# STATE BOARD OF REGISTRATION RESOLUTION

WHEREAS, the 1960 Constitutional amendment to Article VIII, Section 1, of the State Constitution prescribes new, different and additional qualifications for voting in this state; Act 305 of 1960 prescribes a new form for application for registration of voters; and Act 485 of 1960 provides criminal penalties against Registrars of Voters who fail to comply with all State laws relative to the registration of voters; and

WHEREAS, the State Board of Registration, created by Article VIII, Section 18, of the State Constitution, has the duty, power and authority under L.R.S. 18:191 etc. to supervise parish Registrars of Voters, to prescribe rules and regulations, forms and documents for use in the operation and administration of the Registrars of Voters' offices and to coordinate the procedures for the registration of voters in accordance with law, and uniform procedures and forms should be used by all the Registrars of Voters throughout the state; therefore:

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that, in order to have uniform application of the State voter qualification laws in all parishes of the state, the attached standard forms be adopted to carry out the requirements of Section 1 of Article VIII of the State Constitution as amended, and all parish Registrars of Voters in the State are hereby required to use this form in addition to the new form for registration of voters prescribed by Act 305 of 1960, in the procedure for registration of voters without exception.

BE IT FURTHER RESOLVED that copies of said forms and instructions to parish Registrars of Voters to comply with the State voter qualification laws be prepared by this Board and distributed to all Registrars of Voters in Louisiana.

(Over)

Form No. 11

**APPLICATION FOR REGISTRATION FORM**

**OFFICE OF REGISTRAR OF VOTERS**

**Parish of [redacted], State of Louisiana**

Ward No._____

Prect. No._____

Cert. No._____

I am a citizen of the United States and of the State of Louisiana.

My name is Mr.—Mrs.—Miss_____ I was born in the State (or country) of_____, Parish (or county) of_____, on the_____ day of _____, in the year_____. I am now_____ years,_____ months and_____ days of age. I have resided in this State since_____, in this Parish since_____, and in Precinct No._____, in Ward No._____ of this Parish continuously since_____. I am not disfranchised by any provisions of the Constitution of this State. The name of the householder at my present address is_____

My occupation is_____ My color is_____ My sex is_____ I am not now registered as a voter in any other Ward or Precinct of this State, except_____ My last registration was in Ward_____ Precinct_____ Parish_____. I am now affiliated with the_____ Party.

In each of the following items the applicant shall mark through the word "have" or the words "have not" so that each item will show a true statement about the applicant.

I have ~~have not~~ been convicted of a felony without receiving a full pardon and restoration of franchise.

I have ~~have not~~ been convicted of more than one misdemeanor and sentenced to a term of ninety (90) days or more in jail for each such conviction, other than traffic and/or game law violations, within five years before the date of making this application for registration as an elector.

I have ~~have not~~ been convicted of any misdemeanor and sentenced to a term of six (6) months or more in jail, other than traffic and/or game law violations, within one year before the date of making this application for registration as an elector.

I have ~~have not~~ lived with another in "common law" marriage within five years before the date of making this application for registration as an elector.

TURN CARD OVER

SAMPLE

I have (have not) given birth to an illegitimate child within five years before the date of making this application for registration as an elector. (The provisions hereof shall not apply to the birth of any illegitimate child conceived as a consequence of rape or forced carnal knowledge.)

I have (have not) acknowledged myself to be the father of an illegitimate child within five years before the date of making this application for registration as an elector. I do hereby solemnly swear or affirm that I will faithfully and fully abide by all the laws of the State of Louisiana, so help me God.

Signature _____

Sworn to and subscribed before me: _____

(Deputy) Registrar

CHANGE OF ADDRESS

Date _____ Address _____ Ward No. _____ Prect. No. _____ Cert. No. _____

Date _____ Address _____ Ward No. _____ Prect. No. _____ Cert. No. _____

Date _____ Address _____ Ward No. _____ Prect. No. _____ Cert. No. _____

CHANGE OF NAME

I am now Mr.—Mrs.—Miss _____ Date of change _____

Nature of change _____

REMARKS

_____

_____

The following information forms no part of the application but is for use of the registration records:

Parish of _____, State of Louisiana, Date _____, 19____

Address _____ Color of eyes _____

Mother's first or maiden name _____ Name of employer _____

Property owner _____ Tenant _____ Boarder _____

PLAINTIFF'S EXHIBIT No. 7

(See Opposite) ☞

[fol. 173y]

PLAINTIFF'S EXHIBIT NO. 7

# HEARINGS

BEFORE THE

# UNITED STATES COMMISSION ON CIVIL RIGHTS

---

(Emblem)

HEARINGS HELD

IN

NEW ORLEANS, LOUISIANA

September 27, 1960
September 28, 1960
May 5, 1961
May 6, 1961

[fol. 174]

* * * * * * *

TESTIMONY OF MRS. WINNICE J. P. CLEMENT, REGISTRAR OF VOTERS, WEBSTER PARISH, LA.

Vice Chairman STOREY. Have that seat, please, ma'am. For the record, will you please state your name, your age, your residence and occupation?

Mrs. CLEMENT. Winnice J. P. Clement, 61 years old, Minden, La., Registrar of Voters for Webster Parish.

Vice Chairman STOREY. How long have you been in that capacity?

Mrs. CLEMENT. Since September 15, 1940.

Vice Chairman STOREY. 1940?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Some 21 years?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Have you occupied that position continuously?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Do you give full time to it, Mrs. Clement?

Mrs. CLEMENT. Yes, sir.

Vice Chairman STOREY. And have since you first started to work?

[fol. 175] Mrs. CLEMENT. Well, when I first went to work, we were only required to work 2 days a week—

Vice Chairman STOREY. I see.

Mrs. CLEMENT. Except every day before the election.

Vice Chairman STOREY. Mrs. Clement, the other people have some questions to ask, but you just heard this witness testify. Are you familiar with the incidents to which he refers?

Mrs. CLEMENT. Of the four witnesses, I only remember one witness.

Vice Chairman STOREY. Four witnesses?

Mrs. CLEMENT. I remember Willie Mae Allums.

Vice Chairman STOREY. What do you mean—"four witnesses"?

Mrs. CLEMENT. That testified last September.

Vice Chairman STOREY. What I am getting at: This man, Morgan, testified about the incident with reference to the constitution. Do you remember him—

Mrs. CLEMENT. No.

Vice Chairman STOREY. Coming back to your office?

Mrs. CLEMENT. No, sir; I sure do not, because I know so few Negroes in Webster Parish, and I do not remember.

Vice Chairman STOREY. Do you have an assistant?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Who is that?

Mrs. CLEMENT. Mrs. Marcella Shaw.

Vice Chairman STOREY. Does she work there all the time?

Mrs. CLEMENT. Oh, she has since the last—I believe October.

Vice Chairman STOREY. Do you know anything about the rejection of this applicant, Morgan?

Mrs. CLEMENT. Well, it's on the file there Mr. Clark and Mr. Amidon copied.

Vice Chairman STOREY. But you have no independent recollection of these conversations?

Mrs. CLEMENT. No, sir; I sure do not.

Vice Chairman STOREY. Are there other questions you want to ask—either one of you? Mr. Isbell.

Mr. ISBELL. Yes, sir. Mrs. Clement, Mr. Clark and Mr. Amidon testified that you had told them that early in 1957 you changed your policy as to the order in which you had applicants fill out the application forms and give them the constitutional test. They said that you told them in the early part of 1957 you would have them fill out an application form first and then give them the constitutional test. They said later in that year you changed the order and started giving them the constitutional test first, and only if they did that successfully would they be given an application form to fill out. Is that correct?

Mrs. CLEMENT. That is correct.

[fol. 176] Mr. ISBELL. What was the reason for that change?

Mrs. CLEMENT. Well, I just—we did not have—we weren't required to save the card in that case.

Mr. ISBELL. But did you change the order in which the application procedure was conducted?

Mrs. CLEMENT. Yes.

Mr. ISBELL. I am not sure that you answered the question why you changed that order. Was there a reason for—

Mrs. CLEMENT. The law did not require us to keep them, and I just quit keeping them and reversed the procedure.

Mr. ISBELL. Why did you reverse the procedure?

Mrs. CLEMENT. Well, I just didn't want to keep all the cards.

Mr. ISBELL. Do you mean that if you gave the constitutional test first you would not have to keep so many cards?

Mrs. CLEMENT. That's right.

Mr. ISBELL. Because a lot of people would flunk the constitutional test and, therefore, you wouldn't have to have them fill out cards?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Did you use this same procedure on both Negroes and whites, or just on Negroes?

Mrs. CLEMENT. Both.

Mr. ISBELL. Did a lot of white persons also flunk the constitutional test?

Mrs. CLEMENT. Well, some did.

Mr. ISBELL. Would it be fair to assume, then, that if Mr. Clark and Mr. Amidon found the card of a rejected ap-

plicant dated in January or February of 1957—this is a card that he filled out, an application card, but the applicant's card is in the rejected file—would it be fair to assume that applicant flunked the constitutional test? He filled out the card, but he was rejected; so, probably, he flunked the constitutional test?

Mrs. CLEMENT. It must have been then.

Mr. ISBELL. Then is it also a proper assumption that any card that is in the rejected file after early 1957 is the card of somebody who passed the constitutional test, but who flunked or, that is, who did not fill out the application form properly?

Mrs. CLEMENT. I don't know. If we have a lot of them and they are lined up, we don't look the cards over as good as we should.

Mr. ISBELL. If you have a lot lined up, do you give the constitutional test to everybody?

Mrs. CLEMENT. No; not every time. I don't give the constitutional test to all the white people, nor all the Negroes.

Mr. ISBELL. You don't give it to everybody?

Mrs. CLEMENT. No.

[fol. 177] Mr. ISBELL. There are some white people you don't give it to?

Mrs. CLEMENT. And some of the colored I don't give it to.

Mr. ISBELL. How do you decide who you are going to give it to?

Mrs. CLEMENT. I don't know.

Mr. ISBELL. You have no basis for deciding that?

Mrs. CLEMENT. No. Well, sometimes if I know—so many coming there—and when I ask them to interpret the constitution, and I tell them that wasn't right, they said, well, they thought it was.

Mr. ISBELL. And if they would tell you they thought it was, did you—

Mrs. CLEMENT. I would just say, "Go and study the constitution and come back."

Mr. ISBELL. I am interested in finding out why you give the constitutional test to some people and not to other people.

Mrs. CLEMENT. Well, I just don't, because it just consumes so much time, and I was real strict in 1957, right

after they did everything but shoot me, and after that I—they would come in the office, and if they had been registering for years—

Mr. ISBELL. In other words, if you know them—

Mrs. CLEMENT. Yes.

Mr. ISBELL. You are more likely to dispense with the constitutional test?

Mrs. CLEMENT. Yes.

Mr. ISBELL. You say you know a larger proportion of the white people than the colored people?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Who come in to register?

Mrs. CLEMENT. That's right.

Mr. ISBELL. Now, you don't always look over their application form carefully, you said?

Mrs. CLEMENT. Well, not if they're lined up out there, I don't.

Mr. ISBELL. And you accept their applications in such circumstances, and you don't go back over them later on to see whether any errors were made?

Mrs. CLEMENT. No. Hardly ever. We file them.

Mr. ISBELL. Do you do this—that is, not look very carefully at the application cards—even if you don't know the people?

Mrs. CLEMENT. If I don't know them, I do.

Mr. ISBELL. In other words, if you know people, when there are a lot of people lined up, then you don't look very carefully at their application cards?

Mrs. CLEMENT. No; I don't.

Mr. ISBELL. When you do look at the application cards closely, Mrs. Clement, I would like to find out what sort of [fol. 178] mistake or omission on those cards is cause for rejecting an applicant. Suppose—well, let me use the recent one. Do you recognize this form, Mrs. Clement?

Mrs. CLEMENT. Yes.

Mr. ISBELL. This is the LR-1 that you are presently using; isn't that correct?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Suppose an applicant doesn't indicate whether he or she is Mr., Mrs., or Miss; is that cause for rejecting an applicant?

Mrs. CLEMENT. No.

Mr. ISBELL. Suppose that the applicant fails to put in the State and puts in the county or the parish instead of the State in here; would that be cause to reject an applicant?

Mrs. CLEMENT. Well, no, because if they put the State, they put the county or parish down, the same over there, I let them go.

Mr. ISBELL. In other words, if you can get the information from the card, that is sufficient?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Now, suppose when they calculate their age in here—"I am now ——— years, ——— months, and ——— days of age"—suppose when the applicant calculates his or her age the number of days is wrong; would you reject an applicant for that?

Mrs. CLEMENT. No, because I have too many women in Webster Parish that put 21 plus. As long as they're 21 years of age, I let them go. So, if they put the year, that's most of the time, I figure.

Mr. ISBELL. Suppose the applicant answers this question, or on this question, "I have resided in this State since"—if the applicant just omits that, but then later on, "in this parish since"—and puts the information in there.

Mrs. CLEMENT. Well, of course, if it is a requirement of the State, I usually ask them, and that's one thing I notice, or try to, is that they do put how long they have lived in the State.

Mr. ISBELL. If somebody omitted that blank, would you tell them: "You have omitted this. Why don't you fill this in?"

Mrs. CLEMENT. Yes, if it isn't properly filled in.

Mr. ISBELL. Now, on the question, "My color is"—if it is a Negro applicant, is it acceptable for the Negro applicant to put "Negro" in there? How about "color"?

Vice Chairman STOREY. You have to say "yes" or "no" for the record, please, ma'am.

Mrs. CLEMENT. Yes.

Mr. ISBELL. "Color" would be all right as well, ma'am?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Suppose the applicant puts in the color of his or her skin, says "brown" or "black" or something like that; is that all right?

[fol. 179] Mrs. CLEMENT. Yes.

Mr. ISBELL. Suppose that the applicant leaves blank this question: "I am not now registered as a voter in any other ward or precinct of this State, except ....." Suppose the applicant did not put anything in here; is that cause for rejection of the applicant?

Mrs. CLEMENT. No; no. I usually ask them to put their own in there.

Mr. ISBELL. You ask the applicant to do that?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Mr. Isbell, had you finished?

Mr. ISBELL. I was just checking my notes, sir. If you have questions, please—

Vice Chairman STOREY. Well, if you don't mind, we will go ahead and ask a few questions—

Mr. ISBELL. Please do.

Vice Chairman STOREY. Until you have something else.

Mr. ISBELL. Please do.

Vice Chairman STOREY. Mrs. Clement, let me ask you this: Do you have your office open every day for applicants, to register, or do you have certain days for applications?

Mrs. CLEMENT. It is open Monday, Tuesday, Wednesday, Thursday, and Friday.

Vice Chairman STOREY. Five days a week?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. And sometimes you have great, long lines?

Mrs. CLEMENT. Well, yes.

Vice Chairman STOREY. Now, after you give them the constitutional test and also they fill out the cards, do you pass on the card immediately while the applicant is there?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. In other words, you tell the applicant whether he is qualified—

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Or not, right there?

Mrs. CLEMENT. Yes, because we have periodic registration and it isn't—

Vice Chairman STOREY. You don't delay it to tell them that you will write them?

Mrs. CLEMENT. No.

Vice Chairman STOREY. You make your decision right then?

Mrs. CLEMENT. Yes, sir.

Vice Chairman STOREY. As I understand, you give them the constitutional test first before you ask them to fill out the card?

Mrs. CLEMENT. Yes.

[fol. 180] Vice Chairman STOREY. Because if they fail in that there is no use to fill out the card; is that correct?

Mrs. CLEMENT. Yes, sir.

Vice Chairman STOREY. I observe from what you say with respect to the formalities of the card you are not as strict as some of them about they must dot every "i" and cross every "t"; is that right?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. In other words, you are rather liberal and tolerant about mistakes which are obvious?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Now, then, tell me just how you administer the constitutional test. I understand it is oral, is it not?

Mrs. CLEMENT. Well, I pass it to them; yes.

Vice Chairman STOREY. I mean it is oral?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. You do not require them to write anything?

Mrs. CLEMENT. No.

Vice Chairman STOREY. Is that correct?

Mrs. CLEMENT. No.

Vice Chairman STOREY. Do you use the book, or do you copy or have some copies made to hand to them?

Mrs. CLEMENT. No. I just use the book.

Vice Chairman STOREY. You just use the book?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. You might give one voter in the line the test on revenue and taxation, and then the next voter you might turn over to another subject; is that correct?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. Now, just what do you say, in general, to the voter giving him the constitutional test? Just tell us exactly what you do.

Mrs. CLEMENT. Well, two of my favorite ones that I give most of the time is about dispensing the general elections and the immunity of the legislature.

Vice Chairman STOREY. Tell just how you do it. In other words, what do you say to the applicant and what does he say or do, or what do you ask him to say?

Mrs. CLEMENT. I just pass it to him and tell him to explain what he read, like if he read something in the paper and was to tell it to someone else; just tell it in their own words.

Vice Chairman STOREY. I see. You hand him the constitution on a particular subject—

Mrs. CLEMENT. Yes.

[fol. 181] Vice Chairman STOREY. You have mentioned two of them—and tell him to read it and then to explain to you what it means; is that correct?

Mrs. CLEMENT. That's right.

Vice Chairman STOREY. Do you just give him one test?

Mrs. CLEMENT. I let them read it over and over—and not only white, but colored have been in that office 1 hour by the clock trying to interpret the constitution or fill out a form.

Vice Chairman STOREY. Yes, ma'am. What I am trying to get at: For example, if you asked them about the election provision—

Mrs. CLEMENT. All they would need to say to me—it concerned dispensing with general elections. Then I would know they understood it. I have explained to them: "Just make it one or two lines to explain."

Vice Chairman STOREY. Then you say sometimes you have kept them an hour. Do you mean—

Mrs. CLEMENT. I just—

Vice Chairman STOREY. Did they read the same provision and you asked them again?

Mrs. CLEMENT. That is right.

Vice Chairman STOREY. And you have kept many of them an hour?

Mrs. CLEMENT. I mean they have stayed in the office. I have no time limit. If they want to stay in there an hour—well, I won't let them stay much over an hour.

Vice Chairman STOREY. But it is all oral?

Mrs. CLEMENT. And I tell them to study and come back, and come back as many times as they want to.

Vice Chairman STOREY. Yes, ma'am. Now, then, with reference to your rejection, just percentagewise, or in general numbers, what percentage of the whites failed in the constitutional test and what percentage of the Negroes?

Mrs. CLEMENT. You mean by the cards that—

Vice Chairman STOREY. I mean the constitutional test.

Mrs. CLEMENT. Well, that's hard to tell. I just wouldn't know.

Vice Chairman STOREY. Do more whites pass it than Negroes?

Mrs. CLEMENT. Well, sir, since Webster was a Parish there's been more white registered than colored.

Vice Chairman STOREY. I understand that, but percentagewise—

Mrs. CLEMENT. Well, I just wouldn't know. I'm sure that, just off-hand, there's more whites that pass than colored.

Vice Chairman STOREY. Yes. They are better educated, as a rule.

Mrs. CLEMENT. Well, I—

Commissioner RANKIN. I have one question, Mrs. Clement. One of the witnesses testified last fall, in saying he was supposed to follow you, and said you said, "I mean quote word by word what I have read."

[fol. 182] Mrs. CLEMENT. No.

Commissioner RANKIN. Was that the definition of the interpreting of the constitution?

Mrs. CLEMENT. I have never told anyone that.

Commisioner RANKIN. So, that witness was wrong in error, when he said that?

Mrs. CLEMENT. I tell them—I explain to them—the very blackest one that comes into that office—to explain to me just exactly like they read an incident in the paper and try to tell it to me, and that's all I require, but when they come in there and I give them one about dispensing the general election and they start telling me about John Foster Dulles I do not accept it.

Commissioner RANKIN. Another one said this: You asked him about: "How many illegitimate children do you have?"

And he replied: "None." And the answer to that was: "That's a damn lie."

Mrs. CLEMENT. I don't remember that.

Commissioner RANKIN. That is the testimony.

Mrs. CLEMENT. But I could have said it. I could have said it to someone.

Commissioner RANKIN. Can I ask you one more question?

Mrs. CLEMENT. Yes, sir.

Commissioner RANKIN. On this question to Mr. Morgan about the finance and taxation—what would have been a good interpretation of that?

Mrs. CLEMENT. I don't remember even asking anyone that, but, of course, I remember only one of those four that testified.

Commissioner RANKIN. And—

Mrs. CLEMENT. I don't remember any more. As I say, I know so few Negroes in Webster Parish, and I do not remember.

Commissioner RANKIN. Of course, I meant if you would have answered that question what the answer would have been on that finance and taxation that he read here, that article.

Mrs. CLEMENT. I don't know. I have to do like them. I have to read it over.

Chairman HANNAH. Mrs. Clement, Dean Storey asked the question about percentages, and you said you couldn't guess on the percentages. If there are 10 Negro applicants, do half of them pass? Do a quarter of them pass?

Mrs. CLEMENT. Well—

Chairman HANNAH. Is it a very small part of all the Negroes that apply that pass?

Mrs. CLEMENT. Yes; a small part.

Chairman HANNAH. When I look at the chart over there and it says there are 7,300 nonwhites over 21 and there are only 125 of them that are registered—that's less than 2 percent, but then it indicates that there are 80 percent of the [fol. 183] white people, and what I am trying to get at: Is it because there aren't many Negroes that apply or is it because most of them fail?

Mrs. CLEMENT. Well, they don't apply.

Chairman HANNAH. But those that do apply—do as many of them pass as white people?

Mrs. CLEMENT: No.

Vice Chairman STOREY. You have mentioned a time or two, Mrs. Clement, about the four witnesses you understood testified here last fall. You knew just one of them.

Mrs. CLEMENT. I knew—

Vice Chairman STOREY. Did one of them come back to see you after he had been down here?

Mrs. CLEMENT. The only one I remember is Willie Mae Allums. Yes, sir; she came down.

Vice Chairman STOREY. And applied for registration?

Mrs. CLEMENT. Yes, sir.

Vice Chairman STOREY. What happened then?

Mrs. CLEMENT. I passed her the constitution to interpret a section, and she told me she wouldn't even try; says, "I cannot do this now, and I never can," and I told her if she expected to get a card to fill out and a certificate she would have to.

Vice Chairman STOREY. Now, you mentioned you don't remember most of them. What caused you to remember this particular one?

Mrs. CLEMENT. I don't know.

Vice Chairman STOREY. All right. Thank you.

Mrs. CLEMENT. I just did.

Vice Chairman STOREY. Mr. Isbell, do you have any more questions?

Mr. ISBELL. Yes, sir. Mrs. Clement, I would like to ask you to look at a rejected application form. This is identified as Exhibit U-106. The testimony indicates that this card was found in the file of rejected application forms. I would like to ask you, if you can, to indicate to me what error is made on that card.

Mrs. CLEMENT. Well, of course, the person is only 21 years old and, of course, she had no former registration and, of course, she had no party affiliation, but unless she just did not interpret the constitution—I don't remember the person.

Mr. ISBELL. You don't find anything on the card, itself, that would warrant your rejecting this application?

Mrs. CLEMENT. Well, I would ask them to state their party, if they had passed every other test—I mean the con-

stitutional test—and stating "Democrat," "Republican," or "No Party."

Mr. ISBELL. This is the old form, isn't it? It is like this one?

[fol. 184] Mrs. CLEMENT. Yes.

Mr. ISBELL. And the only omission you find is, "I am now affiliated with the ——— Party," and you don't find that item filled in; is that correct?

Mrs. CLEMENT. No; it isn't filled in, but I would call that to their attention.

Mr. ISBELL. Yes. Well, you would not say you would have rejected this application because of that?

Mrs. CLEMENT. No. It would have to be something else. I mean she didn't interpret the constitution.

Mr. ISBELL. Now, notice the date on that form, Mrs. Clement.

Mrs. CLEMENT. It's—

Mr. ISBELL. What is the date on it?

Mrs. CLEMENT. July 16, 1957.

Mr. ISBELL. Now, that was after you had changed your policy as to the order in which you administered the constitutional test; isn't that correct?

Mrs. CLEMENT. Yes.

Mr. ISBELL. Now, you had given this person an application form, which would indicate that she had already passed the constitutional test; isn't that correct?

Mrs. CLEMENT. Well, I don't know. A lot of times I have kept the cards and told them that when they returned they would not have to fill out another card—sometimes—but sometimes they would fill them out.

Mr. ISBELL. That is, you keep the card if they have been rejected—

Mrs. CLEMENT. That's right.

Mr. ISBELL. If they failed to register?

Mrs. CLEMENT. Yes.

Mr. ISBELL. The question is: Why would this person have been rejected?

Mrs. CLEMENT. I do not remember, unless she didn't interpret the constitution.

Mr. ISBELL. Would you tell me the same thing about these two exhibits, please, Mrs. Clement? One is marked U-107. One is marked U-108. Both of these have been identified as being in the file of rejected applications.

Mrs. CLEMENT. I do not—I cannot remember. Of course, this is wrong, right here, "The name of the householder at my present address."

Vice Chairman STOREY. Will you talk just a little louder, please, ma'am? We can hardly hear.

Mrs. CLEMENT. Where it says: "The name of the householder at my present address."

[fol. 185] Mr. ISBELL. In other words, this question here: "The name of the householder at my present address is"—that blank is not filled in?

Mrs. CLEMENT. Well, not properly.

Mr. ISBELL. What does it say on that?

Mrs. CLEMENT. It says: "Route 1, Box 111, Sibley, La."

Mr. ISBELL. In other words, it gives the address and not the name?

Mrs. CLEMENT. Householder. The householder. Children that aren't married put their father. Wives put their husband's name, and the husbands put their own.

Mr. ISBELL. And that is on Exhibit U-108. In other words, that might be the reason why this person—

Mrs. CLEMENT. That's right.

Mr. ISBELL. Was rejected?

Mrs. CLEMENT. It might be. I don't remember.

Mr. ISBELL. Can you give us any idea why that other application would have been rejected, U-107?

Mrs. CLEMENT. No. I do not remember this one. She put "Owner" there.

Mr. ISBELL. I would like the record to show all of these are rejected applications of Negro applicants.

Vice Chairman STOREY. They will be so received and filed. Anything else, Mr. Isbell?

Mr. ISBELL. No.

Vice Chairman STOREY. Mrs. Clement—do you have something, Mr. Bernhard?

Mr. BERNHARD. I just have one. You may recall, Mrs. Clement, Mr. Amidon testified about some rejected Negro

applications back in January-February of 1957, and I have just looked at one which he identified as U-105(b), and I don't see any errors on it, and I would just like to ask you if I am in error in my analysis of it.

Mrs. CLEMENT. This was in January of 1957, right when I had had orders to comply with the law.

Mr. BERNHARD. What did that mean—"to comply with the law"?

Mrs. CLEMENT. Well, the registration law, which is to ask them to interpret the constitution. Unless he failed that, I do not know.

Mr. BERNHARD. And, as I understand it, since this time you sometimes ask the constitutional test and sometimes don't?

Mrs. CLEMENT. Well, I did white and colored in 1957, and the first 2 years, 1957 and 1958, most of them. There was a few of both white and colored I didn't ask; the lawyers and doctors and different ones I did not ask, but most of them I did.

Mr. BERNHARD. So that if, in fact, this has been, as it is, correctly filled out, the reason the person is not registered is that he did not pass the constitutional interpretation?

[fol. 186] Mrs. CLEMENT. I don't remember, but it must have been.

Mr. BERNHARD. And, in fact, if that had not been asked of this applicant he might have been registered; is that correct, also?

Mrs. CLEMENT. If that had been 1954, 1955, or 1956, he would have been a registered voter.

Mr. BERNHARD. Thank you very much.

Vice Chairman STOREY. Mrs. Clement, didn't I understand you to say after the new law became effective that the first thing you did was give the constitutional test, so that if the person failed, then you did not fill out a card; is that correct?

Mrs. CLEMENT. Yes. I let them fill the card first—

Vice Chairman STOREY. Oh. I see.

Mrs. CLEMENT. And then I quit that and gave them the constitution first.

Vice Chairman STOREY. So, you wouldn't have to fill out the card?

Mrs. CLEMENT. Yes.

Vice Chairman STOREY. You don't know which category these are in?

Mrs. CLEMENT. No, sir; I do not.

Vice Chairman STOREY. Any other questions?

Chairman HANNAH. Yes. I would like to ask again this question: If, on this form I have, the only error is an omission in not indicating the political party with which the applicant is affiliated, is that sufficient reason alone for you to refuse the certificate, in your view?

Mrs. CLEMENT. Well, no, but I don't remember that, whether they failed the constitution or what. I do not remember.

Chairman HANNAH. I see.

Mr. PADGETT. May I—

Vice Chairman STOREY. All right, Mr. Padgett.

Mr. PADGETT. Because the investigators were confused by that same thing, may I explain it would make no difference at all as to the qualifications of the applicant, other than he would not be qualified to vote in any primary election if he did not fill that in?

Mrs. CLEMENT. No.

Chairman HANNAH. What I am trying to get is not the specific question, but the single omission, which to me seems to be of no particular importance, if that is the only omission, whether that is, in itself, enough to refuse to proceed with the registration, and Mrs. Clement isn't just sure because she isn't sure whether it was on this card or something else as the reason she rejected it.

Vice Chairman STOREY. All right. Anything else? You are excused, then, Mrs. Clement. Do you have anything else on this parish, Mr. Bernhard?

[fol. 187] Mr. BERNHARD. No. I have nothing further of Mrs. Clement. I wonder whether or not Mr. Padgett, who had told us—we invited him to submit a statement. He has not done so, and I do not know whether or not he had any statement that he wanted to make or whether the Commission would care to hear it.

Vice Chairman STOREY. Mr. Padgett.

Mr. PADGETT. I appreciate your courtesy, Mr. Bernhard. I don't believe that any statement is necessary, other than

the fact that we have come a considerable distance, and I wonder whether it would be in order to ask the Commission if we may now be excused.

Vice Chairman STOREY. Do you have anything else? Any objection?

Mr. BERNHARD. None whatsoever.

Vice Chairman STOREY. You and your witness may be excused, Mr. Padgett. Thank you. Now we will take a recess for 10 minutes.

(Thereupon, at 3:18 p.m., a 12-minute recess was taken.)

Vice Chairman STOREY. May we be in order? Mr. Bernhard, would you present the next witness or evidence?

Mr. BERNHARD. At this time, Mr. Chairman, I would like to recall Mrs. Elizabeth Taylor, from Plaquemines Parish, for just a few questions. This will be very brief.

Vice Chairman STOREY. Will you come around, please?

Will you hold up your right hand and be sworn? Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. TAYLOR. I do.

* * * * * * *

PLAINTIFF'S EXHIBIT No. 8A

(See Opposite) ☞

[fol. 187a]

PLAINTIFF'S EXHIBIT NO. 8A

# STATE OF LOUISIANA

# INFORMATION

RELATIVE TO

# DEMOCRATIC PRIMARY ELECTION

To be held January 18, 1944
Under the provisions of Act 46 of 1940

ISSUED BY

Jas. A. Gremillion

Secretary of State

Approved:

Eugene Stanley

Attorney General

[fol. 188]

**FORM FOR CALLING PRIMARY ELECTION**

....., La., ....., 1943.

MINUTES of a meeting of the Democratic Executive Committee of the.....

The Democratic Executive Committee of the.....,

.....,

State of Louisiana, met in accordance with law on this date at the above place. There were present in person the following members:

.....

.....

.....

.....

The following members were represented by proxies in due form, which have been filed with the records of this committee:

.....

.....

.....

.....

RESOLUTION By Mr.....

WHEREAS, Act No. 46 of 1940, requires that the Democratic Executive Committee of the.....

.....

.....

State of Louisiana, shall meet and issue a call for a primary election for the purpose of selecting a Democratic candidate for the office of.....

.....

for the ensuing term.

THEREFORE, BE IT RESOLVED by the Democratic Executive Committee of the.....

.....

[fol. 189]

that Tuesday, January 18, 1944, be fixed as the date for the holding of said primary election of the Democratic party for said nomination; that any one desiring to become a candidate for the Democratic nomination for

.....a.....:

for the ensuing term, shall on or before midnight of

.....,

1943, file with.....,

Chairman of this Committee, in the form prescribed by law, his notification of candidacy, setting forth that he is a duly qualified elector under the Constitution and laws of Louisiana, and that he is a member of the Democratic Party and shall accompany his said written notification of candidacy with his affidavit setting forth that he possesses all of the qualifications prescribed by the resolutions of the State Central Committee of the Democratic Party.

BE IT FURTHER RESOLVED, That no one shall be permitted to vote at the said Democratic Primary Election except electors of the White Race.

BE IT FURTHER RESOLVED, That all candidates for said nomination shall deposit with the Chairman of this Committee, to be remitted to the Secretary of State, the sum of $.....required by Section 32 of Act 46 of 1940, and shall in addition at the same time deposit for incidentals and other expenses of this Committee the sum of $.....and also the sum of $....., to be remitted to the Secretary of the Democratic State Central Committee in accordance with its resolutions.

There being no further business, the meeting duly adjourned.

.....
Chairman.

.....
Secretary.

[fol. 189a]

PLAINTIFF'S EXHIBIT NO. 8B

## STATE OF LOUISIANA

# INFORMATION

RELATIVE TO

# DEMOCRATIC PRIMARY ELECTION

To be held January 20, 1948
Under the provisions of Act 46 of 1940,
as amended

ISSUED BY

WADE O. MARTIN, JR.,
Secretary of State.

Approved:

FRED S. LeBLANC,
Attorney General.

[fol. 190]

**FORM FOR CALLING PRIMARY ELECTION**

....., La., ....., 1947.

MINUTES of a meeting of the Democratic Executive Committee of the.....

The Democratic Executive Committee of the.....

.....,

State of Louisiana, met in accordance with law on this date at the above place. There were present in person the following members:

.....

.....

.....

.....

The following members were represented by proxies in due form, which have been filed with the records of this committee:

.....

.....

.....

.....

RESOLUTION By Mr.....

WHEREAS, Act No. 46 of 1940, requires that the Democratic Executive Committee of the.....

.....

.....

State of Louisiana, shall meet and issue a call for a primary election for the purpose of selecting a Democratic candidate for the office of.....

.....

for the ensuing term.

THEREFORE, BE IT RESOLVED by the Democratic Executive Committee of the.....

.....

that Tuesday, January 20, 1948, be fixed as the date for the holding of said primary election of the Democratic party for said nomination; that any one desiring to become a candidate for the Democratic nomination for

.....

for the ensuing term, shall on or before 5 o'clock P. M.

(Central Standard Time) of.....

1947, file with.....,

Chairman of this Committee, in the form prescribed by law, his notification of candidacy, setting forth that he is a duly qualified elector under the Constitution and laws of Louisiana, and that he is a member of the Democratic Party and shall accompany his said written notification of candidacy with his affidavit setting forth that he possesses all of the qualifications prescribed by the resolutions of the State Central Committee of the Democratic Party.

BE IT FURTHER RESOLVED, That no one shall be permitted to vote at the said Democratic Primary election except electors of the White Race.

BE IT FURTHER RESOLVED, That all candidates for said nomination shall deposit with the Chairman of this Committee, to be remitted to the Secretary of State,

the sum of $.....required by Section 32 of Act 46 of 1940, as amended and shall in addition at the same time deposit for incidentals and other expenses of this Commit-

tee the sum of $.....and also the sum of $.....,
to be remitted to the Secretary of the Democratic State Central Committee in accordance with its resolutions.

There being no further business, the meeting duly adjourned.

.....

Chairman.

.....

Secretary.

[fol. 192]

PLAINTIFF'S EXHIBIT NO. 10

PLAINTIFF'S EXHIBIT NO. 10

# Voter Qualification Laws In Louisiana

## *The Key To Victory In The Segregation Struggle*

A Manual of Procedure For Registrars of Voters, Police Jurors and Citizens Councils

# - Foreword -

### Bloc Control — The Goal of the NAACP and the Communists

The Communists and the NAACP plan to register and vote every colored person of age in the South. While the South has slept, they have made serious progress toward their goal in all the Southern states, including Louisiana.

They are not concerned with whether or not the colored bloc is registered in accordance with law. They are interested only in seeing that all persons in this bloc are registered and in using their votes to set up a federal dictatorship in the United States.

They plan to divide the people of the South, and to take us over, state by state, and parish by parish. They would do this by trading the minority block back and forth between our split-up factions until we have sold our heritage of freedom and self-government for a shifting parcel of NAACP and Communist controlled votes.

### The Enforcement of Voter Qualifications Laws in Louisiana

At least ninety percent of the bloc that they plan to misuse would have to be registered illegally in Louisiana because ninety percent of them cannot meet the voter qualifications prescribed by law. In fact, ninety percent of this bloc now registered and being used by the NAACP to control some of our elections, are registered in violation of our laws and illegally influencing the election of our officials.

### The People, the Officials and the Citizens' Councils in Law Enforcement

It has become vitally important that the people see to it themselves that the Registrars of Voters throughout the state comply fully with the provisions for qualifications of voters set forth in our Constitution and our Statutes.

The ACCL has prepared this manual of legal procedure which Registrars in Louisiana may follow in preventing illegal registration. The manual outlines the methods by which parties who have been registered illegally may be removed by law from the registration rolls.

The consistent use of this manual will be especially helpful to our state and local officials, and local Citizens' Councils in lending the Registrars of Voters the support and guidance that they must have in carrying out the all-important job of enforcing our voter qualification laws.

### The Key to Victory

We are in a life and death struggle with the Communists and the NAACP to maintain segregation and to preserve the liberties of our people.

The impartial enforcement of our laws is the KEY TO VICTORY in this struggle.



# - Contents -

I. Introduction — Page 3

The legal background for voter qualifications and the practical reasons for enforcement

II. Registration Qualifications — Page 4

A step by step outline of the qualifications for voter registration provided by law, with explanations of each qualification and the penalties for violating same.

III. The Removal of Illegally Registered Voters — Page 6

A review of the processes by which

1. A registrar is required by law to remove illegally registered voters.
2. Any two qualified voters in a parish may institute automatic legal proceedings through the registrar for the removal of unlawfully registered voters in the parish.
3. Any one qualified voter in the state may institute legal proceedings through a District Court for the removal of any unqualified voters in any parish of the state.

IV. Conclusion — Page 7

A summation of the reasons that make voter qualification laws so necessary and their enforcement so vital to our way of life.

V. Appendix — Pages 9-10

Legal forms to use in removing unlawfully registered voters from the registration rolls.

[fol. 194]

# *Voter Qualification Laws In Louisiana*

## INTRODUCTION

"After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution." This solemn declaration in Article VIII, Section 1 of our Constitution is just another way of saying that the "right to vote" is not a "right" at all. It is a privilege which the State extends only to certain of its citizens having such qualifications as are prescribed in our Constitution and Statutes.

This principle was pointed out with great clarity by the Supreme Court of the United States in the case of Pope v. Williams 193 U. S. 621, 24 S. Ct. 573 (1904). The court in that case said:

> "The privilege to vote in any State is not given by the federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. . . . It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as it may deem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal constitution.

We are all familiar with such requirements as those of age, residence and citizenship. Some remember that not many years ago women were not permitted to vote in forty-seven of the forty-eight states. The nineteenth amendment to the Constitution of the United States was passed to change this. Indeed, every civilized country restricts its electorate by some form of registration qualifications.

The purpose of this pamphlet is to review the qualifications prescribed by Louisiana law and the remedies provided in the event of violation of these laws.

The need for some compilation of our registration laws was suggested by numerous reports of widespread ignorance of, and, in many cases, deliberate and wilful violation of these safeguards to honest and intelligent elections.

No one would think of encouraging a child of tender years to play with a loaded gun; yet many of our officials and responsible citizens condone and even approve the registration of unqualified and ignorant blocs of voters. The destruction that might be wrought by a child with a gun is, you can be sure, nothing compared to that which can be wrought by bloc voting of an ignorant electorate. Whoever encourages such a practice is not only a poor citizen, he is dangerous and an enemy to you and your family! You as a citizen must be vigilant against this danger which threatens every community in our beloved State.

### Registration Qualifications

The qualifications for registration are contained in Article VIII of the Louisiana Constitution and Title 18 of the Revised Statutes of our State. In order to legally register to vote, an applicant must fulfill each of these qualifications. Hence, a registrar before enrolling ANY person as a voter must proceed as follows:

1. Personal Appearance. Every applicant shall appear personally before the registrar at a designated place of registration provided by law. No registration made by proxy or at any other place is valid. (Const. Art. VIII, Sec. 1. par. (b); L. R. S. 18:239)

2. Identification. Unless the applicant is personally known to the registrar, he must establish his identity. (Const. Art. VIII, Sec. 1, Par. (c).). The registrar may require that the applicant produce two registered voters from his precinct to identify him. (L. R. S. 18:37).

3. Residence. The applicant shall establish that he has been an actual resident of the State for two years, of the parish for one year and of the precinct for three months. (Const. Art. VIII, Sec. 1, Par. (a) ).

4. Citizenship and Age. The applicant is, also, required to prove that he is a citizen of the State and the United States and that he is not less than twenty-one years of age. (Const. Art. VIII, Sec. 1 and L.R.S. 18:31). Special methods of proof are provided for foreign born applicants. (L.R.S. 18:-36).

5. Ability to Read and Write. The applicant shall be able to read and write and shall demonstrate this ability by completing the registration form in his own handwriting, WITHOUT assistance or suggestion from any person OR any memorandum or form. (Const. Art. VIII, Sec. 1, Par. (c); L.R.S. 18:31). Where the applicant does not comply

strictly with this requirement his registration is illegal and cannot be cured by filing a new application properly filled out. He must register completely. (Op. Atty. Gen. 1942-1944, p. 457.)

6. Persons Unable To Complete Registration Form in Own Handwriting. Exceptions to the requirements of paragraph 5 above are made in the following cases:

A. If the applicant is literate in a language other than English, he may fill out the registration blank in his native language with the card being translated to him by an interpreter. (Const. Art. VIII, Sec. 1, Par. (c); L.R.S. 18:31).

B. If the applicant is prevented from reading or writing by physical disability, the card shall be written at his dictation by the registrar. (Const. Art. VIII, Sec. 1, Par. (c); L.R.S. 18:31).

C. If the applicant is an illiterate, he may be permitted to register on demonstrating the following: *(does not need two witnesses)*

1. That he is of good character and reputation.

2. That he is attached to the principles of the Constitution of the United States and of Louisiana.

3. That he understands the duties and obligations of citizenship under a republican form of government.

4. That he is well disposed to the good order and happiness of the State of Louisiana and the United States.

5. That he understands and can give a reasonable interpretation of any section of either the Constitution of Louisiana or the United States when read to him by the registrar.

(It should be noted that these three restrictions are aimed at eliminating all except the physically handicapped and foreign language speaking citizens who are literate, and the very intelligent illiterates. Since this is in the nature of an exception to the usual rule, each of the specific qualifications above set forth must be strictly fulfilled. (Const. Art. VIII, Sec. 1, Par. c and d; L.R.S. 18:31 and 36.) In each of the above cases, the applicant shall NOT be registered unless he brings with him two qualified electors of the precinct in which he resides to sign written affidavits attesting the truth of the facts set forth in the application form and the accompanying affidavit. (L.R.S. 18:31 (5).)

7. Character and Understanding. Every applicant must establish that he is of good character and understands the duties and obligations of citizenship under a republican form of government. (Const. Art. VIII, Sec. 1, par. c; L.R.S. 18:31 (2).)

8. Ability To Read and Interpret Constitution. Every applicant, other than those described in paragraph 6 above, shall demonstrate his intelligence by reading and giving a reasonable interpretation of any portion of the Constitution of Louisiana or the United States selected by the registrar. (Const. Art. VIII, Sec. 1, par. c; L.R.S. 18:35; Trudeau v. Barnes, 65 F. (2) 563 (1933), certiorari denied 54 S. Ct. 74, 290 U. S. 659, 78 L. Ed. 571.)



9. Persons Ineligible To Register. The following persons shall not be permitted to register:

A. Those convicted of any felony who have not been pardoned with express restoration of franchise.

B. Inmates of any charitable institution except the Soldiers' Home, and the U. S. Marine Hospital at Carville.

C. Those actually confined in any public prison.

D. Those who have been interdicted.

E. Those who are notoriously insane or idiotic, whether interdicted or not.

F. Deserters from military service, until they have returned to their command and served out their original enlistment.

G. Persons dishonorably discharged from the military. (Const. Art. VIII, Sec. 6 and L. R. S. 18:-43).

It should be clearly understood that these qualifications are mandatory. No registrar can lawfully waive any of them. (L.R.S. 18:-196). Failure to fully qualify makes the registration illegal and subjects anyone violating these requirements, including the registrar, to fine and imprisonment. (L.R.S. 18:221 and 222).

## The Removal of Illegally Registered Voters

In a large majority of the parishes in the State, there are at this time, great numbers of unqualified voters who have been illegally registered. They invariably vote in blocs and constitute a serious menace to the community. As a patriotic and loyal citizen, it is your duty to see that the registration rolls in your parish are purged of illegal voters and kept clean in the future. Our laws already provide easy and rapid means for cleaning up a situation such as that now facing the citizens of this State. All that is needed is a little information (which we earnestly hope this pamphlet will provide), courage, intelligence and determination on your part. All civic clubs and patriotic organizations should undertake a campaign to purify the registration rolls in their respective parishes.

The status of the rolls in your parish can be easily determined because they are public records and must be open to inspection by any qualified voter at all times during office hours. Upon written application of twenty-five or more qualified voters of the parish,

[fol. 196]

these records shall be opened for copying, photographing, or photostating. (L.R.S. 18:92).

Once the rolls have been inspected and the illegally registered voters ascertained, their removal can be accomplished by any of three methods.

First: The registrar having reason to believe that any person is illegally registered, shall immediately notify the person by mail of the alleged irregularity, sending with the notification a printed citation requiring the registrant to show cause within ten days why his registration should not be cancelled. Publication of this notice shall be made in the official journal. Unless the registrant appears within the time allotted with three registered voters of the parish to make affidavit that he is legally entitled to remain registered, his registration is cancelled. (L.R.S. 18:132 and 244).

Second: Any two registered voters of the parish may make an affidavit before the registrar charging illegal registration. The registrar shall immediately (within forty-eight hours) mail a duplicate of the affidavit together with a citation requiring the one charged to appear within ten days and prove by three registered voters, in the manner described in the preceding paragraph, that he is qualified. Similar publication must be given. If the challenged registrant fails to make the required proof within the prescribed time his registration shall be cancelled forthwith. (L.R.S. 18:133 and 245).

Third: Any qualified voter of the State may proceed against any registrant or registrants illegally registered in the district court of the parish of said registrants to have their names stricken from the rolls. Such proceeding shall be tried by preference before a jury of twelve, nine of whom must concur to find a verdict. No appeal shall lie, except by a person whose name has been stricken. Such an appeal shall be tried in the Court of Appeals, whose judgment is final. All of the proceedings described in this paragraph shall be without court costs. (Const. Art. VIII. Sec. 5).

In an appendix to this pamphlet will be found two suggested forms for use in connection with purging the rolls of unqualified voters. Form "A" is an affidavit to be used by two qualified voters of the parish in challenging illegal registration, when the second method above listed is used. Form "B" is a printed citation to be used by the registrar in connection with either the first or second method.

### Conclusion

The time has come when we in Louisiana must purge and purify the registration rolls in our state, or abandon the conduct of our public affairs to a small clique of corrupt and disloyal political opportunists. In proceeding to clear the rolls of illegally registered voters and in establishing a systematic procedure for registration in your parish, you must be exceedingly careful to observe the legal rights of ALL of the citizens of the parish. The whole purpose of our registration laws is to prevent the registration of ignorant, "bloc" voters who would become the tools and pawns of scheming adventurers. If our laws are intelligently and fairly administered, they will accomplish our purpose automatically. If they are not carefully observed as to ALL registrants, we will soon find ourselves right back in the situation which we are now combatting. We must each realize that our friend or our relative who is unable to legally qualify would be just as great a menace to our State as any other illegally registered person. Discrimination between applicants or registrants cannot be tolerated! The future of our state, our family and future generations will depend to a great extent on how these registration laws are enforced.

[fol. 197]

## APPENDIX "A"

Form LR--17

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

State of Louisiana—
Parish of

Personally came and appeared before me

(Deputy) Registrar of Voters in and for the Parish of
State of Louisiana.

and

who being duly sworn, do depose and say: That they are bona fide registered voters of this parish: That after reasonable investigation by them, and each of them, and on information and belief, that

Registered from

(Municipal number and street, if any)

To whom was issued registration certificate No. Ward

Precinct , of this Parish, is illegally registered or has lost his or her right to vote in the precinct, ward or parish in which they are registered, for the following reasons:

And should be erased from the Official Precinct Register of Ward

Precinct , that this affidavit is made for the purpose of causing said name to be erased.

Sworn to and subscribed
before me, on this
day of , 19

(Deputy) Registrar of Voters

(9)

## APPENDIX "B"

Form LR--16B

PRINTED CITATION OF NOTICE TO ERASE

State of Louisiana,
Parish of

Registration Office

CITATION TO APPEAR

FROM:

Registrar of Voters

Parish of
State of Louisiana:

TO:

You are hereby notified, that on or before the day of 1956, a period of ten days from the mailing date of this citation, during office hours, you are to show cause in person, if any you have, before the undersigned registrar of voters for the Parish of
State of Louisiana; why your name should not be erased from the Official Precinct Register of Ward No.

Precinct No.

Certificate No.

In order to retain your registration you are required to produce proof that you are legally registered in the manner provided by the law.

Registrar of Voters.

LOUISIANA:

day of 19

(10)

[fol. 198]

## PLAINTIFF'S EXHIBIT NO. 13

PLAINTIFF'S EXHIBIT NO. 13

[redacted] LEGISLATIVE COMMITTEE

[redacted]

May 26, 1958

[redacted]

RE: Registration of Voters in Accordance with Laws of the State of Louisiana

[redacted]

Enclosed herewith are the following:

1) [redacted] of recent opinion of the Attorney General of the [redacted] Louisiana relative to the conduct of Registrars and other [redacted] officials, a copy of which has already been sent to you [redacted] by Attorney General Jack P. F. Gremillion.

2) A [redacted] of cards similar to those in use in several parishes in [redacted] in connection with the determination of applicants' knowledge of the Constitution as required by the Constitution and laws of the State of Louisiana. On the back of the card you will find a sample resolution for a police jury which [redacted] the Registrars to comply fully with Louisiana laws. [redacted], L.R.S., requires that the Registrar examine each applicant on his knowledge of the Constitution and also provides penalties in the event these provisions are not complied with.

As you know, the fight to maintain segregation of the races is progressing towards an all-out battle to prevent the illegal registration of bloc voters. It is the hope of this Committee that the enclosures will be of some help to you who are on the very front line. For the good of yourself, your community and your State, we strongly urge that you take immediate steps to see that our voter registration laws are strictly enforced in your parish.

Sincerely yours,

W. M. Shaw

cc: [redacted] Jack P. F. Gremillion

[redacted]

PLAINTIFF'S EXHIBIT No. 15

(Exhibits 15A-15 I are news articles on background of adoption of Interpretation Test in 1921.)

PLAINTIFF'S EXHIBIT No. 15A

[fol. 199a]

# The Outlook

*A WEEKLY NEWSPAPER*

## VOLUME LXXI.

MAY—AUGUST, 1902

FOUR MONTHS

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THE OUTLOOK COMPANY
NEW YORK

[fol. 199b]

# Negro Disfranchisement in Louisiana

By Paul L. Haworth

IN February, 1898, there assembled in Tulane Hall, New Orleans, a Constitutional Convention whose main object was to frame new suffrage requirements that would legally or quasi-legally eliminate the negro from politics, and thus obviate the necessity of a continued use of "shot-gun tactics" to accomplish that end. Owing to the fact that the Convention wished to disfranchise the blacks alone, but was prevented by the Fifteenth Amendment from doing this by discriminations based directly on color, the system finally adopted is a complicated one. Under its provisions an applicant for registration must show that he can read and write, or that he is the bona-fide owner of $300 worth of taxable property within the State: provided, however (and these are the famous "naturalization" and "grandfather" clauses), that "no male person who was on January 1, 1867, or at any date prior thereto, entitled to vote under the Constitution or statutes of any State of the United States wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the adoption of this Constitution, and no person of foreign birth who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualification prescribed by this Constitution: provided he shall apply for registration and shall have registered in accordance with the terms of this article prior to September 1, 1898, and that no person shall be entitled to register under this section after said date."

From the point of view of its originators the system has proved very successful. The "naturalization" and "grandfather" clauses furnish loopholes for practically all the poor and illiterate whites; while they do in none but a very few States debar negroes entitled to vote on January 1, 1867, they let in practically none of the poor and illiterate of that race. Consequently, though the system has not excluded all negroes from the polls, it has reduced the number of such voters to a very low figure, as a comparison of the following figures will show.

On January 1, 1897, the total number of registered voters throughout the State (under Act 123 of 1880) was as follows (figures incomplete):

| | |
|---|---|
| Whites | 164,088 |
| Negroes | 130,344 |
| Literate whites | 133,608 |
| Whites who made their X mark | 28,371 |
| Literate negroes | 33,803 |
| Negroes who made their X mark | 94,498 |

The registration for the election of 1900 under the Constitution of 1898 was as follows:

| | |
|---|---|
| Whites | 125,437 |
| Negroes | 5,320 |
| Registration under "grandfather" and "naturalization" clauses | 29,189 |
| Whites coming in under educational qualification | 86,157 |
| Whites coming in under property qualification | 10,793 |
| Negroes coming in under educational qualification | 4,327 |
| Negroes coming in under property qualification | 916 |

Among other things, these figures reveal also the fact that neither all the blacks nor all the whites who are qualified to do so have registered under the present laws. Even of those registered very far from all take the trouble to cast their ballots. In the last Presidential election the total vote was but 67,479—for McKinley 14,554, for Bryan 52,925—about one-half the registration, or one-fourth the total number of males of voting age. This indifference is largely owing to the fact that the present system leaves the Republican party not the slightest hope of succeeding in anything. Consequently the negroes, who are almost all Republicans, feel that it is useless to vote; while the whites, who are almost all Democrats, feel that it is unnecessary. "What is the use of voting when we can't have the slightest effect on the result?" Many negroes qualified to register have said in substance to the writer: "We should only gain the ill will of the whites and run the risk of bad treatment."

Whether or not there is a great deal of partiality in administering the educational

provision is difficult to determine. In the course of an extended investigation I found that nearly every negro claims that there is much of it—that registration officers have one educational standard for the negro and another for the white. I have been told of many cases of well-educated colored men being refused the right to register on the ground that they did not come up to the proper standard. A particular case is that of the vice-principal of one of the largest colored schools in New Orleans. This man, a graduate of Straight University and a lieutenant in the Spanish-American War, was rejected; and though he finally succeeded in registering, he did so only after considerable difficulty. It is claimed, however, that negroes who are Democrats have no trouble in registering. "Give them the wink that you'll vote the Democratic ticket, and they'll let you in all right enough," a bright negro one day said to me. On the other hand, most whites contend that no partiality is shown towards either race. Occasionally, however, one is met with who in a burst of confidence will tell you that although at present, with a total colored registration of but 5,320, there exists no need for unfairness, yet, were the necessity to arise, many registration officers would doubtless have two standards.

A personal experience will perhaps be suggestive in connection with this question of partiality. Having one day entered the New Orleans registration office in order to study the workings of the system, I at length fell into a discussion with the head deputy and a number of other men who happened to be in the room on the advisability of allowing negroes a share in the government. At first the discussion was a very commonplace one, and nothing was said by the deputy to lead one to believe that he would be otherwise than fair. Nevertheless, I felt that he was not giving me his real opinions; so, having discovered from much previous experience that the average Southerner rarely expresses himself freely on the suffrage question to a Northerner except when caught off his guard or when he is angry, I decided to set a trap for the deputy.

Accordingly, I proceeded to take advanced ground in favor of the negroes, and soon succeeded in drawing him out even beyond my utmost expectations, for, springing to his feet with a wild light in his eyes, he waved his arms frantically in the air and burst out with many oaths; he said:

"I was a member of the White Camelia in '74, and I've shot the damned rascals by the dozens! If I had my way, not one of the black scoundrels should come near the polls. . . ." And so on *ad infinitum*.

From that time forward I was inclined to regard stories told me by negroes of unfairness in registration offices with much less suspicion.

The feeling of the two races toward the present suffrage system is a subject of considerable interest. In my investigations I found that unquestionably the great majority of whites favor it. Their only regret is that it does not exclude all negroes. The words of President Kruttschnitt in summing up the work of the Convention that adopted it represented the prevailing white opinion at that time, and still represents it. Said he, referring to the restrictions imposed by the Fifteenth Amendment: "We have not been free; we have not drafted the exact Constitution we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of the State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins."

The truth is, the old feeling that the negro was expresaly created by the Almighty to be servant to the white man is still strong in Louisiana, particularly in the country districts; and the ordinary Southerner regards with extreme disfavor any attempt of the colored man to attain equality, either social or political. "The nigger's all right in his place; when he tries to get out of it, hit him on the head, and next time he'll come in with his hat off," said a city official to me one day. Such is the attitude of the class of whites who are usually in the saddle; and this class, needless to say, are strong advocates of disfranchisement.

A more liberal view is taken by a comparatively small body of more progressive whites. While believing that the present system does much good by disfranchising a great deal of ignorance, they recognize

injustice of the "grandfather" and naturalization clauses, and regret that the requirements are not fair to both races. A portion of the speech of a Democratic member—they were all Democrats but one—of the Constitutional Convention, in explaining his vote on the suffrage article, is in point in this connection. Though voting in the affirmative, for the reason that the "measure, imperfect and defective though it is, will, in my opinion, bring about a vast improvement over existing conditions," he declared that he desired to go on record as opposed to section 5 [the "grandfather" and "naturalization" section] and in favor of a straight educational or property qualification and a poll tax, to go into effect immediately; believing . . . that nine-tenths of those [white men] who would be disfranchised are utterly unfit for and therefore unworthy of the inestimable right of suffrage."

By no means all the whites who recognize the injustice of the system are so outspoken; for sentiments such as those given above are very far from popular with the general public. In this connection I recall with considerable amusement the caution displayed by a professor of history and political science in one of the universities of the State. In a talk I had with him it was easy for me to see that he believed the system unfair, yet I was unable to pin him down and get him to say so directly.

The great mass of the negroes regard the subject with comparative indifference. Accustomed, before the present system was adopted, to being deprived of his ballot by fraud or intimidation, the ordinary negro cares little that the fact of his disfranchisement is incorporated in the statute-books. "I'd done passed up votin' long befoh," he says; "so it's nothin' to me nohow."

Among the more intelligent a different spirit is shown. Most of these agree that restrictions on the franchise are desirable—that the amount of ignorance in the state (Louisiana is the second most illiterate State in the Union) is such that the interests of good government demand that certain classes be excluded from the polls; but they denounce the present system as the unjust outcome of unreasoning race prejudice, and they insist that an impartially administered educational qualification, or a property qualification, or the two taken as alternatives, would meet every legitimate need. In sustaining their contention they point to the unquestionable fact that the Italians and other poor and illiterate whites who come in under the "naturalization" and "grandfather" clauses are fully as low as, and in many cases even lower than, the corresponding class of negroes.

Whatever else may be his judgment on the Louisiana suffrage system, no one can deny that, were Congress to enforce the Fourteenth Amendment, the State—with a registration in 1900 of but 130,757 out of an adult male population of 325,943—would lose a very large part of her representation in the Lower House of Congress.

Needless to say, the whites of the State are almost to a man opposed to such a reduction. Most negroes, however, would be glad to see the Amendment enforced. Their reason for desiring such enforcement is that they dread still further reaction against their rights, and feel that interference by the Federal Government in the suffrage question would have a salutary deterrent effect.

In this connection I wish to quote the opinion of a member of the faculty of one of the negro universities in Louisiana. The man in question is a graduate of Vermont University, of the Yale Divinity School, has studied in Germany, and in addition possesses a thorough knowledge of race conditions in Louisiana, as well as an unusual sanity of view; consequently his words carry considerable weight. Said he to me:

"The outlook for the negro in this State is the worst I have known it for years. Encouraged by their success in the matter of the suffrage, negro-haters hope to make a successful assault on some of the negro's other rights. Already in the public schools of New Orleans they have succeeded in arranging matters so that no instruction is given negro children beyond the fifth grade. Such being the state of affairs, we earnestly believe that if the Federal Government would only say, 'Thus far shalt thou go and no farther,' it would have a happy effect."

Unquestionably there is some ground for apprehension on the part of the negroes. The Southern white man claims to understand the negro better than any

one else does, and to a certain extent his claim is well founded; unfortunately, however, he understands him too much as a mere animal rather than as a man with latent capabilities to be developed. The result is that the position of the negro to-day is undoubtedly a hard one. On the plantations of Louisiana, with their "pluck-me stores" and other devices for leaving him a little poorer at the end of the year than he was at the beginning, he is still in a state of peonage but little better than slavery. The few poor rights that he does enjoy have all been granted as a result of outside pressure, and now that that pressure is removed there exists the danger that some of these rights may be lost. "At last the negro is going to be put into his place," is the exulting cry of many Southerners. That there may be still further reaction is not improbable. That such reaction will be permanent, however, is impossible. The negro problem is one which must be solved, and the only way to solve it is to make the negro—and also his white brother—a man. This can never be done by taking away his rights.

PLAINTIFF'S EXHIBIT No. 15B

(Article from—The Times-Picayune—February 27, 1921.)

(See Opposite) ☞

# TENSION ON TAX ISSUE WHILE MEMBERS MEET

## Louisiana's Ninth Convention to Frame Constitution Opens in Baton Rouge Tuesday—Many Arrive. Wide Variance in Views on Many Points.

### *FIRST FACTS.*

There are 146 deelgates.

It's Louisiana's ninth Constitutional Convention.

For the first time, women are to help draft organic law.

Lieutenant-Governor Bouanchaud and former Congressman Phanor Breazeale are candidates for its presidency.

As delegates gather, there is evident high tension on several issues, most striking that of taxation, with one school urging an income tax, and much quiet backing therefor from those who want the severance tax on natural resources discontinued.

BY W. D. ROBINSON
Staff Correspondent of The Times-Picayune

Baton Rouge, La., Feb. 28.—Louisiana's Constitutional Convention called by the 1929 Legislature under approval by the people last November, convenes at noon Tuesday, March 1, in the House of Representatives to frame a new body of organic law.

The gathering will be the third of the kind held since Louisiana entered the union. The first was in 1812, the others in 1845, 1852, 1864, 1868, 1879, 1898, and 1913.

There are 140 delegates [illegible]

Only three limitations are placed upon the convention by the act of call:

1. Prohibiting the passing of any article or provision whereby the bonded indebtedness of the state or any of the subdivisions thereof may be affected.

2. Prohibiting the reduction or abrogating of the terms of office of any public officer in the state.

3. Forbidding the removal of the state capital from Baton Rouge.

The Supreme Court holds that a Constitutional Convention has no authority to go beyond the limitations of the call.

The convention has full power to reorganize all the state government departments, subdivisions and branches. It has also the power to frame and adopt a new constitution without submission to the people or to submit it if deemed best.

The length of the session is optional, but delegates cannot receive compensation for more than seventy-five days. Pay of the delegates is fixed at $10 per day, with mileage from homes to Baton Rouge and return for not exceeding three trips during the session.

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### OUTSTANDING SUBJECTS.

Pre-convention discussion reveals the following among outstanding subjects for consideration:

1. Revenue, taxation and assessments.
2. Revision of suffrage articles.
3. Reorganization of the judiciary system.
4. Public education.
5. Supervision and control of public utilities.
6. Conservation of natural resources, especially natural gas.
7. Rights and limitations of corporations.
8. Restricting the right of corporations to hold large tracts of land.
9. Affairs of the city of New Orleans.
10. Abolition or consolidation of boards and commissions and reduction of expenses of government.
11. Preparation of the Negro suffrage along the lines of the federal constitution.
12. Maintenance and support of state institutions.
13. Parish and municipal government reform.
14. Civil service for state, parochial and municipal employees.
15. Reduction of the size of the Legislature, increasing the pay of members and enlargement of the powers of that body.
16. Ways and means to curb political rings in the state, especially in the larger cities.
17. Initiative, referendum and recall.
18. Reforming laws of publicity [illegible] by Mississippi river.

### DIFFERENCES AND TENSION.

Adverse discussion discloses wide differences of opinion on every subject enumerated.

Lively and interesting contests in the convention are sure.

Perhaps the biggest issue is that of taxation. Tension that reaches into the pockets of every citizen, affects every business, stretches from farm to factory. Taxing power can be used to destroy, unless safeguards are placed in the constitution. The power can likewise be used to build up the state. Practically every delegate in giving this subject the closest attention. All of them seem to realize that the future prosperity and development of Louisiana to a considerable extent, depends upon the taxation article that will be written into the new organic law.

Revision of the suffrage provision is necessary because the United States Supreme Court declared the famous "grandfather" clause invalid. This clause is no interloper into the present suffrage provision that the whole article must be recast.

Already several substitutes have been proposed, among them the "understanding" clause from Mississippi, held valid by the Federal Supreme Court, the Connecticut clause requiring voters to possess a "good moral character," and the plan of Ex-Governor R. G. Pleasant to confine the right of suffrage to the descendants of those persons who inhabited the earth north of the twentieth degree of north latitude prior to October 12, 1492, when Columbus discovered America. The purpose of his plan is to shut out the negro.

### THE JUDICIAL QUESTION

Reorganization of the judiciary system is another big issue. Various plans have been proposed, showing wide divergence of views. One interesting most attention is that of the special committee of the Bar Association for the creation of a Supreme Judicial Council. The whole question will be fought out at length.

Discussion has made it clear that many delegates favor abolishing justices of the peace and creating parish courts. The "Jay Pees," as they are commonly called, are in danger. Strong sentiment has also developed for abolishing rural constables, giving their duties to sheriffs and deputies.

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There are [illegible] delegates [illegible]

# TENSION ON TAX MEASURES HIGH AS MEET NEARS

Continued from Page One

were elected by parishes on apportionment in the House of Representatives. Sixteen come, two from each congressional district. Twelve were appointed by the governor.

For the first time in the state, women will sit as members of a legal deliberative body. There are three women delegates, Mrs. J. E. Friend of New Orleans; Mrs. J. D. Wilkinson and Mrs. Edith Browne Bailiee of Shreveport, Mrs. Friend and Mrs. Wilkinson were appointed by Governor Parker, and Mrs. Bailiee was elected from Caddo parish.

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13. Parish and municipal government reform.
14. Civil service for state, parochial and municipal employees.
15. Reduction of the size of the Legislature, increasing the pay of members and enlargement of the powers of that body.
16. Ways and means to curb political rings in the state, especially in the larger cities.
17. Initiative, referendum and recall.
18. Relocating lines of parishes bisected by Mississippi river.
19. Encouragement of the development of the natural resources.
20. Encouragement of the agricultural industry.
21. Restrictions on the right of boards and commissions to make rules and regulations that carry penalties.
22. Development of the waterway system of the state.
23. Maintenance of levees, construction and maintenance of highways, and drainage and reclamation.

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PLAINTIFF'S EXHIBIT No. 15C

(Article from—The Times-Picayune—March 3, 1921.)

(See Opposite) ☞

# PIGEONHOLE FOR BEHRMAN'S PLAN

## Committee to Hold Up This Resolution on Legislation

(Staff Correspondence New Orleans States)

STATE HOUSE, BATON ROUGE, La., March 3.—Thirty five committees, two more than in the Convention of 1898, will comprise the working bodies of this Convention.

The two new ones are: Conservation, fifteen members, and Roads and Drainage, fifteen members.

In other respects the 1921 organization follows the lines of the Convention of 1898. The Simpson project of rules was adopted in toto, with only a few minor changes.

Creation of committees featured the first meeting of the committee on rules and procedure, Wednesday night, presided over by Chairman Allen Stollars, which met in the Senate Chamber at 8 o'clock. It was near the stroke of 12 before either the rules committee or Tax Committee ended their day's labors.

There were other interesting features to the rules committee session.

It finally killed the resolution of Mr. Chappius, of Crowley, providing for a stenographic report of the proceedings of this Convention, estimated to cost $30,000, by a vote of 13 to 8.

**Behrman Resolution Fought.**

The resolution of Mr. Behrman, Orleans, to provide a committee of seven to pass upon bills and keep legislation out of the Constitution was taken up. After several sharp passages, chiefly as to whether there is "Legislation" in the 1898 Constitution, this committee shared the view of the Convention two days ago, when it declined to act on the Behrman resolution and moved to "hold it over."

Discussion of the Behrman resolution was spicy at times. Mr. Behrman made it plain he had no ax to grind in offering the measure.

"My only intent is to keep legislative matter out of the Constitution," he explained to the committee, of which he is a member. "I cannot be charged with having any personal interest, because this committee would be composed of men learned in the law and I am no lawyer. I believe it is a good resolution and ought to be passed."

**Some Support It.**

Frank E. Powell strongly supported the idea advanced in the resolution.

"I am not wedded to this particular resolution," said the DeRidder man, "but we should have some such safe guard. We all know the 1898 Convention is loaded up with legislative matter. We have been spending the time of legislatures and paying out

Walter J. Burke favored a committee, probably the Committee on Style and Revision, to seek out all legislative matter in the existing Constitution and report same to the Convention.

"The Committee on Style and Revision is for final review of the finished instrument," interposed Colonel John P. Sullivan and others.

Ex-Governor Pleasant thought the Convention ought to be able to discriminate; "in other words, be its own clearing house."

Mr. Brenmale moved an unfavorable report, seconded by Delos R. Johnson. Several shouted no."

"How about holding it up awhile," said one addressing Mr. Behrman.

"Anything suits me," he said, in good humor. "I'm not wedded to the resolution and have no interest in it, save to secure a short, concise Constitution."

**Chappius Resolution Beaten**

Delegate Chappuis argued his stenographic proposition at great length and presented documentary evidence show other states were preserving work of their Constitutional Conventions with short hand reports.

"We owe it to the future generation," he opened.

Getting down costs, he said it could be done for less than $30,000 which would also absorb the cost of the daily journals, which will cost this convention between $2000 and $4000.

"Even if it costs $35,000," said he, "the Constitution will serve for 50 years at least, which would mean only $1000 per year."

Governor Pleasant, during the heat of debate, arose, with a broad smile. "There might be one subject coming up for discussion which we would not care to have preserved in short hand," he said.

The committee caught the import that he referred to his Columbus Suffrage cause, and everybody smiled.

Planter Brenmale moved a favorable report—that this committee recommend a stenographic report, provided it would not cost over $30,000.

Mr. Behrman seconded. Roll call the first ordered resulted in a vote of 13 nayes, six yeas as follows:

For unfavorable report—Sholars, Barret, Liverman, Pleasant, Walker, Mrs. Wilkinson, Burke Johnson, Miss. Sullivan, Powell, Gilbert, Jones, 13.

For favorable report—Brenmald, Behrman, Mrs. Baillo, Clinton, Hardtner, Chappuis.

The two woman members of the committee divided, Mrs. J. D. Wilkinson voting "no," Mrs. E. B. Baillo, also from Shreveport, voting an audible "Yes."

Standing committees provided for follow:

Suffrage and Elections, 27 members; Distribution of Powers of Government, 13; Legislative Department, 17; Impeachment and Removal from Office, 9; Executive Department, 11; Judiciary, 21; General Provisions, 15; Amendments to the new Constitution, 15; Bill of Rights, 15; Limitations, 15; Public Education, 27; Finance and Banking, 21; Apportionment and Redistricting, 25; Schedule to the Constitution, 7; Federal Relations, 15;

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"I am not wedded to this particular resolution," said the DeRidder man, "but we should have some such safe guard. We all know the 1898 Convention is loaded up with legislative matter. We have been spending the time of legislatures and paying out taxpayers' money ever since to amend it. I firmly believe that there should be some way of separating organic from legislative matter in this Convention."

Judge Philip H. Gilbert also approved the principle.

"The arbitrary feature, as it has been charged, might be removed by not making all ordinances referable to this committee, but for only those measures when a doubt arises," he said.

Phanor Breazeale, who sat in the Convention of 1898, stoutly denied the allegation that legislation had been written into that Constitution.

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The two woman members of the committee divided, Mrs. J. D. Wilkinson voting "no," Mrs. E. B. Bailie, also from Shreveport, voting an audible "YES."

Standing committees provided for follow:

Suffrage and Elections, 27 members; Distribution of Powers of Government, 13; Legislative Department, 17 Impeachment and Removal from Office, 9; Executive Department, 11; Judiciary, 21; General Provisions, 15 Amendments to the new Constitution, 15; Bill of Rights, 15; Limitations, 15; Public Education, 27; Finance and Banking, 21; Apportionment and Redistricting, 25; Schedule to the Constitution, 7; Federal Relations, 15; Militia, 9; Health, Quarantine and State Medicine, 15; Taxation, Equalization and Exemptions, 25; Homesteads and Exemptions, 13; Enrollment, 9; Contingent Expense, 9; Printing and Publication, 13; Municipal and Parochial Corporations and Affairs, 15; Rules and Procedure, 25 Agriculture and Immigration, 25; Internal Improvements, and Levee, 13 Corporations and Corporal Rights 15 State Land Ports, Canals and other Property, 15; Manufacturers, 7; Affairs of the City of New Orleans, 17; Charitable and Correctional Institutions, 11; Pensions for Confederate Veterans, 11; Conservation, 15; Roads and Drainage, 15; Style and Revision, 25.

PLAINTIFF'S EXHIBIT No. 15D

(Article from—The Times-Picayune—March 14, 1921.)

(See Opposite) ☞

# PUBLIC HEARINGS BY COMMITTEES TO BE NUMEROUS

## Heavy Calendar Tonight as Convention Resumes Its Work.

BY W. D. ROBINSON

Baton Rouge, La., March 13. A heavy calendar will confront the Constitutional Convention when that body reassembles Monday night at 8 o'clock. Ninetyfour ordinances have been introduced and referred to proper committees. When the standing committees are announced Monday night or Tuesday, these subdivisions of the convention will have their hands full. Public hearings will follow each other in rapid order when the committees get into action.

Another flood of ordinances dealing with taxation, retrenchment and reduction of public expenditures, which top the list of big issues before the convention, is expected. Among the ordinances looked for are those covering the program of the State Taxation Commission.

Next in important ordinances due to be introduced are those relating to reorganization of the judiciary system. Embraced in this list is the plan of the State Bar Association for judicial reform.

Ordinances designed to revise the suffrage clause of the constitution no doubt will make their appearance within the next week or ten days. Former Governor Pleasant will offer a substitute for the "grandfather" clause, declared invalid by the Federal Supreme Court. Up to date but one ordinance touching this phase of the suffrage question has been introduced. That was by Mr. Hardin of Vernon, carrying what is known as the Mississippi "understanding" clause, the validity of which has been sustained by the United States Supreme Court.

P. H. Hiner of New Orleans and Senator T. L. Dowling of DeSoto, both of whom have plans for the construction and maintenance of a system of state highways, have been invited to address the convention. Introduction of highway ordinances no doubt will follow.

Incorporation in the new constitution of the present system of education, with a few changes, seems to be the program in dealing with the educational question.

No definite plan has been agreed upon in regard to drafting ordinances for safeguarding the state's natural resources. Conferences on this subject are to be held.

Regulation of public utilities, including railroads and public service corporations generally, is receiving the attention of many of the delegates, but no concrete plan has been worked out.

PLAINTIFF'S EXHIBIT No. 15E

(Article from—The Times-Picayune—March 22, 1921.)

(See Opposite) ☞

# SHIFT OF TAXATION BURDEN TO OWNERS OF LEASES SOUGHT

## Hot Fight Over Ordinance Involving Oil and Gas Promised.

## PLAN'S OPPONENTS REACH BATON ROUGE

## Thomas of Bienville Urges Change as Convention Reassembles.

Baton Rouge, La., March 31.—Reassembling Monday night for the fourth week of its work, the Constitutional Convention witnessed the beginning of one of the hottest fights of the session, when O. G. Thomas, delegate from Bienville, introduced an ordinance that will have the effect of shifting from land owners and placing upon the holders of productive oil and gas leases the burden of taxation.

Taxation of oil and gas lands and productive oil and gas leases has been a bone of contention of the oil and gas district for some time. At present oil and gas leases are not taxed in any form. There is no law authorizing the assessment and collection of such a tax. But there is a law that reaches the owners of the lands on which oil and gas wells are located.

The Board of State Affairs, in revising the assessment rolls of the different parishes, issued an order requiring the taxation of lands on which producing oil wells are located on a basis of production. Later the board announced that the same rule would apply to the gas well land owners when the assessment rolls for 1921 are made up.

These orders from the board aroused gas and oil land owners. They objected to the raise and objected that the tax load be shifted to the productive lease holders. The board of state affairs was unable to furnish any relief to the land owners, with the result that they have brought their fight to the Constitutional Convention. Introduction of the ordinance by Mr. Thomas was the first step in their contest. The oil and gas lease holders will oppose it, and the advance guard of that contingent reached Baton Rouge at the same time the Thomas ordinance made its appearance in the convention.

THOMAS ASKS JUSTICE

The ordinance provides:

"That all lands producing oil, gas, and other minerals shall be assessed to fee owners on agricultural valuation and assessed on enhanced valua-

# SHIFT OF TAXATION BURDEN PROPOSED

Continued from Page One

that will embrace the names of all persons of voting age who register prior to January 1, 1922.

2. A requirement that voters must be able to read the constitution or understand the same when read to them.

3. Voters must have a good moral character and understand the duties of citizenship.

4. Disfranchisement of persons convicted of certain crimes.

Judge Pugh holds that these requirements or qualifications are judicially bombproof and will withstand any attack against their validity. The provision in regard to a permanent registration roll was patterned after a similar clause in the constitution of South Carolina.

### Plans Reorganization of Judiciary System.

Provision is contained in an ordinance by Judge Pugh of Acadia for a complete reorganization of the judiciary system of the state. All judges are made elective. The ordinance provides for a supreme court of seven judges with salaries of $8000 a year and with fourteen-year terms of office. Four courts of appeals are created, with three judges to each court, at salaries of $6000 a year and with terms of twelve years. Not more than twenty-five district judges are to be elected, with eight-year terms at salaries of $4000 each annually.

### Wire Companies Ordered to Speed Messages.

Dr. A. F. Barron of West Feliciana introduced an ordinance providing that all telegraph and telephone lines operated for hire shall receive and transmit each other's messages without delay or discrimination and make and maintain connections with each others lines and exchanges under such rules and regulations as may be prescribed by the railroad commission.

### Tax Ordinances Offered By St. Landry Man.

Mr. Sandoz of St. Landry introduced an ordinance to take the place of Article 225 of the Constitution relating to taxation. It provides:

"Taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax and the property shall be taxed in a manner directed by law; provided that property located wholly within incorporated cities and towns of this state which maintain their own streets, sidewalks, lights, etc., shall only be taxed one-half the amount levied against property by the several parishes for parish purposes; and provided that the valuation of property for the assessment of state taxes, levied by the Legislature and by this Constitution may be different from

### Orleanians Assigned To Two Committees.

President Bouanchaud appointed Messrs. Claiborne, Rosen, Sullivan, Behrman, Viosca and Kittredge as members of the committee on parochial and municipal affairs and Messrs. Phelps, Williams, Stafford and Byrnes on the judiciary committee. These were former members of the committee on affairs of the city of New Orleans, which was abolished last week under the Phelps resolution. The other seven members of the late city affairs committee will be provided for later.

### Postmaster Appointed Deputy Fire Marshal.

Thomas H. Ligon, postmaster for the Constitutional Convention, has been appointed deputy state fire marshal for this section of the state. This being the seat of the state government and there being other state institutions near here the need of a state fire marshall for this part of the state has been stressed for some time. Mr. Ligon was endorsed by the most prominent men of the state. His duties will be confined primarily to the eastern section of the state but he is subject to call to any part of the state.

### Parish Government Reform Provided.

Another ordinance for parish government reform was brought in by Judge Pugh. It provides that the affairs of all parishes, Orleans excepted, shall be under the control of a board of supervisors composed of not less than three nor more than five men, who shall own real estate and shall have the necessary educational qualifications to be fixed by the Legislature. The board shall have complete control of all matters relating to parish affairs comprising roads, drainage, schools and all other matters, and shall appoint the necessary officials to manage same, removable at their pleasure. The board is required to divide the parish into as many districts as may be necessary and one member shall be a resident of each district but shall be elected by the people at large. Each supervisor or police juror shall be ex-officio justice of the peace in his respective district and shall have all the powers now existing or hereafter conferred by law upon justices of the peace.

### Dock Board Overlapping Terms Provided.

Ordinances were introduced by Mr. Cummings of the Second Ward, New Orleans re-enacting the provisions in the present constitution relating to the judicial expense fund, the mortgage and conveyance office, the judicial depository and the judicial officers of New Orleans.

He announced that he will on Tuesday in an ordinance dealing with the district courts at New Orleans that will embrace several changes in the judicial system of the city.

### Judicial System Changes in City to Be Asked.

Baton Rouge, La., Mar. 21.—Former Senator Simmons of St. Martin in a statement given out here Monday night, charged that danger to all corporations in the state lurks in an ordinance to

productive oil and gas lands has been a bone of contention of the oil and gas district for some time. At present oil and gas leases are not taxed in any form. There is no law authorizing the assessment and collection of such a tax. But there is a law that reaches the owners of the lands on which oil and gas wells are located.

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These orders from the board aroused gas and oil land owners. They objected to the rules and objected that the tax had be shifted to the productive lands bottom. The board of state affairs was unable to furnish any relief to the land owners, with the result that they have brought their fight to the Constitutional Convention. Introduction of the ordinance by Mr. Thomas was the first step in their contest. The oil and gas lease holders will oppose it, and the attorney general of that contingent reached Baton Rouge at the same time the Thomas ordinance made its appearance in the convention.

THOMAS ASKS JUSTICE

The ordinance provides:

"That all lands producing oil, gas, and other minerals shall be assessed to the owners on agricultural value, and assessed on enhanced value, caused by production of oil, gas and other minerals to parties in proportion as production is distilled or the interest of the parties as many appear."

Mr. Thomas, who is a business man of Bienville parish, takes the view that the oil and gas land owners are carrying the heavy end of the tax load and he proposes to distribute it on a basis of the benefits derived. "The oil and gas land owners control a royalty, and his ordinance would not tax the land owners any greater amount than the agricultural value of the land, plus the royalty.

"I would say," Mr. Thomas said, "this plan I propose would give relief to owners of oil and gas land. It equalizes distribution the increased assessment to all parties concerned. I think this should go in the constitution because it would settle this matter definitely. It would automatically adjust itself as the production increased or diminished.

"The land owner usually gets one-eighth, and in some cases only one sixty-fourth; the proceeds in many cases are practically exhausted in taking care of the increase in taxes. This is not just to the land owner."

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**Substitute for Grandfather Clause Offered.**

An ordinance designed to plug the hole shot through the suffrage provision of the present constitution when the Supreme Court of the United States declared the famous "grandfather" clause invalid, was introduced in the Constitutional Convention Monday night by Judge Philip H. Pugh, of Amelia. The ordinance carries four articles to take the place of the "grandfather" clause, namely:

1. A permanent registration roll

Continued on Page Four

for a supreme court of seven judges with salaries of $8000 a year and with fourteen-year terms of office. Four courts of appeals are created, with three judges to each court, at salaries of $6000 a year and with terms of twelve years. Not more than twenty-five district judges are to be elected, with eight-year terms at salaries of $4000 each annually.

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under the control of a board of supervisors composed of not less than three nor more than five men, who shall own real estate and shall have the necessary educational qualifications to be fixed by the Legislature. The board shall have complete control of all matters relating to parish affairs comprising roads, drainage, schools and all other matters, and shall appoint the necessary officials to manage same, removable at their pleasure. The board is required to divide the parish into as many districts as may be necessary and one member shall be a resident of each district but shall be elected by the people at large. Each supervisor or police juror shall be ex-officio justice of the peace in his respective district and shall have all the powers now existing or hereafter conferred by law upon justices of the peace.

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**Judicial System Changes in City to Be Asked.**

Baton Rouge, La., Mar. 21 – Former Senator Simmons of St Martin in a statement given out here Monday night, charged that danger to all corporations in the state lurks in an ordinance introduced in the Constitutional Convention by Mr. Dale of Concordia.

"Every stockholder," Mr. Simmons' statement reads, "and every officer and director of every corporation of every kind in this state should give immediate attention to the ordinance by Delegate Dale of Concordia.

# PLEA FOR RIGHT TO VOTE IN LOUISIANA

## Colored Delegation Presents Its Views To Convention

(Staff Correspondence New Orleans States)

STATE HOUSE, Baton Rouge, La., March 31.—A large delegation of negro citizens of the State, from New Orleans, Shreveport and the parishes, appeared before the suffrage and educational committee Thursday and pleaded for the ballot on the one hand and for greater educational facilities on the other.

They ask for the ballot on educational and property provisions.

"We are satisfied with these qualifications," they said.

They do not look upon the "understand clause" with any favor. They said it is a two-edged sword and will cut two ways—against whites as well as blacks.

Bishop R. E. Jones, chairman, made the plea for the suffrage, in part as follows:

"We base our plea upon our numbers. Forty-two per cent of the total population of the State of Louisiana belong to our group. Not that all would vote under any sort of constitutional provision, even though it were liberally interpreted in our favor, but that there should be a total disenfranchisement of [illegible] of human beings who occupy such a place as we do in the industrial, agricultural, commercial and domestic life of the State should not be possible in this day of progress and [illegible].

[illegible]

"We base our plea upon our aggregate worth. We have been operating as many as [illegible] farms with an acreage of [illegible] acres, [illegible] of which are improved farms producing crops worth over [illegible] annually.

"We own and operate four State-wide benefit life insurance companies, together using a total annual collection in premiums of over $[illegible]. We have fully [illegible] per cent of the male adults, and [illegible] per cent of the female adults of our group in gainful occupations.

"We have [illegible] and are engaged in over [illegible] kinds of business enterprises outside of farming. We have six colleges of our own, [illegible] agricultural, industrial and manual training, and many primary and denominational schools; and we have 11 farm demonstration agents."

In the delegation appearing were: Bishop R. E. Jones, Prof. J. S. Clark, president of Southern University; Jno. G. Lewis, grand master of Milbone; S. W. Green, grand chancellor of Pythians; B. V. Barnes, head of colored Odd Fellows; Walter L. Cohen, head of several business interests in New Orleans; Dr. J. H. Lowery, Albert

(Staff Correspondence New Orleans Item)

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They do not look upon the "understand clause" with any favor. They said it is a two-edged sword and will cut two ways—against whites as well as blacks.

Bishop R. S. Jones, chairman, made the plea for the suffrage, in part as follows:

"We have our plea upon our citizenship. Fourteen per cent of the total population of the State of Louisiana belong to our group. Not that all would vote under any sort of constitutional provision, even though it were liberally construed in our favor, but that there should be a total disenfranchisement of 700,000 of human beings who comprise a group as we do in the industrial, professional, commercial and civic life of the State, should put it seriously in the way of progress and [illegible] of these.

"We have our plea upon our aggregate wealth. We have been operating as many as 50,000 farms with an average of 2,000,000 acres, 1,000,000 of which are improved farms producing crops valued over $100,000,000 annually.

"We also operate 500 State-wide business enterprises, together having a total annual collection in premiums of over $700,000. We have fully 60 per cent of the male adults and 70 per cent of the female adults of our group in gainful occupations.

"We have our State Teachers' Leagues and are engaged in over 70 kinds of business entirely [illegible] outside of farming. We have six colleges of our own, 30 agricultural, industrial and manual training, and many primary and denominational schools; and we have 11 farm demonstration agents."

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Prof. Clark made the presentation before committee on education, which included:

"We humbly petit on you for a State normal school for the training of colored people, for the definite work of training for the public schools of the State. Such school, located in another section of the State, would increase the worth of the colored people of the State, and thus give a larger opportunity to those of our race who desire to be trained for public school room service. Such a school is very much needed, and would be highly appreciated by every colored person in the State of Louisiana. It would have the undivided support of the colored people, and would mean much to the teaching profession."

FOUR

# PLEASANT BILL N. SUFFRAGE READY

## Submits Plan To Make Columbus Descendants Voters

(Staff Correspondence New Orleans States)

STATE HOUSE, BATON ROUGE, La., April 8—Ex-Governor Pleasant, chairman of the committee on suffrage and elections, submitted his ordinance on suffrage qualifications, popularly known as his Christopher Columbus ancestry bill, intended to abridge and cover the provisions of the grandfather clause. It reads:

The following persons, and no others, shall be electors and shall be entitled to vote at any election in the state by the people (except as may be otherwise provided hereafter in this constitution) if he or she possesses the additional qualifications desired in sections 2 and 3 of this article:

Section 1. Every citizen of this state and of the United States, native born or naturalized, not less than twenty-one years of age.

(A) All of whose ancestors, as shown by historical and anthropographical evidence, inhabited any portion of the earth, north of the twentieth degree of north latitude immediately previous to the discovery of America by Christopher Columbus in the year one thousand four hundred and ninety-two, Anno Domini; the suffrage franchise being herein recognized in these citizens as an intellectual right inherited from these peoples of the world whose creative genius and civilizations have made the discovery of America and the establishment of the government of the State of Louisiana and the government of the United States potent realities.

(B) Or who shall possess such educational qualifications as the legislature shall prescribe.

Section 2.—He or she shall have been an actual bona fide resident of the state for two years, of the parish for one year and of the precinct in which he or she offers to vote for three months next preceding the election; provided that the removal from one precinct to another in the same parish will not operate to deprive any person of the right to vote in the precinct from which he or she has removed until six months after such removal.

Section 3—He or she will have been, at the time of offering to vote, legally enrolled as a registered voter on his or her personal application, in accordance with the provisions of this constitution and the laws enacted thereunder.

PLAINTIFF'S EXHIBIT No. 15F

(Article from—New Orleans States—March 31, 1921.)

(See Opposite) ☞

PLAINTIFF'S EXHIBIT No. 15G

(Article from—New Orleans States—April 8, 1921.)

(See Opposite) ☞

PLAINTIFF'S EXHIBIT NO. 15H

STATE [illegible] TIMES —MONDAY, MAY 9, 1921.

# GRANDFATHER CLAUSE CUT OUT CONSTITUTION

## Printed Schedule is Put on Desks of Members of Convention.

## UNDERSTANDING CLAUSE PROVIDED

## Must Be Able to Read and Write and Understand Constitution to Vote.

When delegates to the constitutional convention return to the capital Monday night for the 11th week's session of the convention they will find on their desks the printed schedule of the suffrage and elections committee. The printed bill was sent to the printers on Saturday afternoon by Gov. R. G. Pleasant, chairman of the committee.

The bill does not contain the proposal made by Governor Pleasant that only those inhabited any portion of the earth north of the twentieth degree of north latitude previous to the discovery of this country by Columbus, should have the right of suffrage. Neither does it contain the Bohrman unit plan of voting in the state by which all officials would be elected through an electoral college system.

The deliberations and discussions of the committee were conducted with much secrecy. Most of the committee sessions were executive and a strict injunction on not discussing the provisions of the schedule was observed by the members. The gist of the report which contains a great many of the provisions of the 1898 constitution, follows:

The grandfather clause is eliminated and there is substituted an understanding and good character clause and there also is an educational qualification provision. The property qualification provision contained in former constitutions is eliminated.

A new article provides for the appointment of a parish registrar of voters in each parish by the lieutenant governor and speaker of the house. This article was adopted by a majority vote of a divided committee.

The residential requirements of two years in the state and one year in the parish was retained but the precinct residence was cut down from six months to three months. The legislature is authorized to provide for absentee voting by such means other than by mail.

Elections in all parishes of municipalities with a population over [illegible] on the same day as state elections, which means they will come in [illegible].

[illegible] tax payers are placed on the same basis as the men taxpayers and must vote in person at special elections requiring a majority of persons and property. This provision was adopted at the request of some of the leading women of the state.

Disputed questions on matters of registration must be tried before a jury of 12, of which nine can concur. An added article provides for the punishment of bribe givers or takers in elections but provision is made for immunity for the person who first informed.

Practically all of the other provisions in the [illegible] constitution are retained as covering the remaining articles in the schedule. The new measure contains [illegible] articles.

# NEW ORGANIC LAW OF STATE PRACTICALLY COMPLETED

## Extension Saved Convention From Failure; Work Reviewed

(Staff Correspondence New Orleans States)

STATE HOUSE, BATON ROUGE, La., June 11.—When the Constitutional Convention adjourned Saturday afternoon until Monday it had practically completed its labors.

Numerous legal delays must be observed and it will not be until next Thursday or Friday that the Convention of 1921 will finally adjourn sine die, but its calendars are practically clear. The judiciary schedule was finally passed, late Friday night, by a vote of 166 to 11, and severance tax was adjusted by compromise (if it stays put), which was the last of the big issues to be settled and passed along.

The co-ordination committee has suffrage and elections, severance tax, drainage and a number of minor ordinances in hand, but by sitting through Saturday night, Chairman Walter J. Burke said he expected to have everything back in the Convention Monday night, upon the assembling, ready to take their places in the final run off.

The taxation schedule came back into the Convention Saturday, after concurrence by the committee on taxation in a series of minor amendments, offered in co-ordination, and it was put through the [illegible] touches.

### New Organic Law Written

Louisiana's new organic law has been written.

It will not be submitted to the people for their ratification or rejection. Submission was defeated Friday, by a vote of 81 to 58. Powerful influences have been at work from the opening day against the submission and Administration leaders on the floor of the Convention were openly against sending the instrument back to the people. It was soon apparent in the early stages that submission never had a chance. The committee on schedule, was solidly against the plan, and when, after easing it along for weeks and weeks, the measure was finally brought out of committee, it was tagged with an unfavorable report 6 to 9.

At the opening of the Convention a number of the prominent members, speaking of submission, stated their positions about as follows:

"If we write a constitution we are willing to sign, we will be against submission."

With possibly one rare exception, these members finally voted against submission. They have written a constitution based on their own statement, with which they are satisfied.

### Extension Saved It

Taken as a whole, the instrument is believed to be a good one; far better than was believed possible, when the first limitation of 75 days expired and the Convention extended its life four weeks. The Convention, fully appreciating how nearly it was on the rocks at that time, righted itself, took on a new lease of life and buckled down to work.

The result has been good.

Persons in position to know believe the State will have a good organic law, shorter and with much less legislative matter than constitution of 1898.

In fact, taking the constitution of 1898 as a working basis—the product of master minds of the state at that time—it has been improved upon in many particulars and the result as it stood out, Saturday, was satisfying.

The co-ordination committee, headed by Walter J. Burke, and six other strong men, have done excellent work in whipping the final ordinances into a completed whole.

When the Convention was called, there were four great organic subjects claiming attention:

Taxation, in all its ramifications.

Suffrage, to meet new conditions, women voting, etc.

Judiciary, a clogged calendar from top to bottom, demanding relief.

Roads, some adequate system of pulling Louisiana out of the mud.

Of course, there were numerous other subjects, but the real work of this convention has revolved around these heads.

Briefly, all four subjects have been tackled and handled to the general satisfaction of the 146 members.

### Taxation, Suffrage

The taxation committee, as is usually the case, discarded for the most part, the report and recommendations of a State Taxing Commission that had traveled over the country, and submitted a set of findings. It set about to write a new system of its own, which it has done. It has limited state advalorem taxes to 5 1-4 mills, with a possible emergency limit of 5 3-4. It has provided for a system of classified property taxes and after weeks of wrangling, backing and filing, adopting and moving to reconsider, it finally adopted a compromise income tax plan for the state of three per cent with effects which

(Continued on Page Four.)

[fol. 211]

PLAINTIFF'S EXHIBIT No. 18

[Letterhead of State of Louisiana, Board of Registration, Baton Rouge.]

September 7, 1962

Miss Mary Ethel Fox
Registrar of Voters
Plaquemines Parish
Pointe-a-la-Hach, Louisiana

Dear Miss Fox:

We are enclosing herewith a copy of a resolution recently adopted by the State Board of Registration with reference to the installation of a system of uniform procedures for the registration of voters in all parishes of the State of Louisiana. We are enclosing a set of detailed instructions, which you are to put into effect immediately, in accordance with the mandate of the aforementioned resolution.

The State Board of Registration and its employees have devoted considerable thought and effort to the production of this program, in order to have uniform enforcement of state voter qualification laws. All interested parties are in agreement that a uniform system is absolutely necessary to insure uniform registration of all applicants. We realize that many questions will arise and many problems will present themselves, so we ask that you feel free to direct your inquiries to this office and we assure you they will receive our prompt attention.

You are instructed, under Acts 62 and 63 of 1962, to put the described system into effect immediately.

Representatives of the State Board of Registration will contact you in person from time to time hereafter to render such assistance as might be needed and to aid in your compliance with the instructions enclosed herein.

Yours very truly,

/s/ HUGH E. CUTRER, JR.
Hugh E. Cutrer, Jr.
Director

HECjr/mmc

Enclosures

[fol. 212]

# INSTRUCTIONS TO REGISTRARS

## Steps of Procedure to Be Followed by Registrars and Their Deputies According to Louisiana Law

1. The Registrar or Deputy Registrar shall interview and give examinations to only one applicant at a time. Applicants should not be near each other, in order to keep one from interfering with another during registration and examination. No other person shall be present for any purpose except the authorized representative of the State Board of Registration. During these examinations, no applicants except those being registered by the Registrar or his deputy should be permitted in the Registrar's office.

2. Have applicant properly identified.

3. If applicant has been registered in another parish of the state, take up registration card or certificate from previous parish or have applicant sign affidavit to be returned to his former parish for cancellation.

4. Registrar shall furnish applicant with card (identified as Form 11), so applicant can do the following:

   A. Execute affidavit.

   B. Read and write a portion of the preamble to the United States Constitution from dictation by the Registrar.

   C. Take citizenship test for registration.

   In order to have applicant complete his citizenship test, the Registrar must have applicant select one of ten cards numbered Form No. 1 through Form No. 10, which cards contain the questions for such test. Cards for selection should be displayed, face-down, to the applicant. After applicant selects his card, the Registrar, for identification, immediately circles in ink the number of the card selected by applicant, in the space provided on Form No. 11 entitled (Question Form Selected).

D. Complete balance of Form No. 11 which includes parish, date, signature of applicant, ward, precinct and address.

5. Registrar shall choose at random one of the five LR-1 cards; and after filling out applicant's home address, ward and precinct the registrar hands the form to applicant for completion. In the case of a married woman, Registrar should instruct her to write her first name, maiden name or initial, and married name.

6. Applicant should not be qualified or rejected by the Registrar or Deputy until all forms are completed.

7. If applicant fails the citizenship test on Form No. 11 or fails to properly fill out Form LR-1, both cards should be attached and filed alphabetically as provided by law.

8. If applicant correctly fills out application (Form LR-1) and passes the citizenship test appearing on Form No. 11, Form No. 11 is to be attached to Form LR-1 for permanent filing. Applicant should then sign permanent registration voting certificate in duplicate, in case of permanent registration, or, where four year registration is in effect, the applicant must sign the proper precinct register, and the Registrar or Deputy must write out a registration certificate and give same to applicant. (In case of permanent registration, the confirmation post card notice is filled in later by the Registration Office and mailed to the address as shown on the registration application).

[fol. 213]

FOREWORD

To provide uniformity in Louisiana's voter registration, your State Registrar has standardized and simplified the tests which are required to qualify applicants to vote.

This was accomplished with the advice and assistance of many of the parish registrars, legislators, public officials, and numerous interested citizens.

Louisiana's Constitution requires that each applicant shall be a person "attached to the principles of the Constitu-

tion of the United States and of the State of Louisiana . . . ", "and that he must understand the duties and obligations of citizenship under a republican form of government.

Each applicant, in order to demonstrate his understanding of the duties and obligations of citizenship under a republican form of government, shall be required to answer any four out of six simple and basic questions printed on a card selected by him.

The answers are such that no discretion as to their correctness is left with the registrar, relieving him of this burden.

All records of questions and answers must be kept in permanent files in the Registrar's Office, and any registrant will be accorded his usual rights of appeal should his application be denied.

[fol. 214]

## RESOLUTION
## OF THE
## STATE BOARD OF REGISTRATION

WHEREAS, the State Board of Registration, created and established by Article VIII, Section 18, of the Constitution of Louisiana, is authorized and empowered by L. R. S. 18: 191 et seq. to prescribe general rules and regulations, duly promulgated, and the character and forms of records, affidavits and other documents necessary or proper, in its opinion, to carry into effect the voter registration laws of this state; and,

WHEREAS, Article VIII, Section 1, of the Constitution of Louisiana, as last amended pursuant to Act 613 of 1960, prescribes qualifications for voting in this state and Section 32 of Title 18 of the Louisiana Revised Statutes of 1950 prescribes the form to be used for application for registration; and,

WHEREAS, it is in the public interest to standardize registration procedures throughout the state, with the view of relieving all Registrars of Voters and their deputies of all

discretion in determining the qualifications of applicants for registration, thus lightening the burdens of said Registrars and deputies as well as insuring a non-discriminatory registration system, to be universally applied to the end that all qualified applicants be registered to vote; and,

WHEREAS, a set of instructions to Registrars and their deputies, outlining each step to be taken in the registration process, has been prepared with the view of insuring a uniform application of the registration laws applicable to the registration of voters; and,

WHEREAS, the aforementioned Article VIII, Section I, of the Constitution of Louisiana, in Paragraph (d) thereof, prescribes as one of the qualifications for voting in this state that a person seeking to qualify "must understand the duties and obligations of citizenship under a republican form of government"; and,

[fol. 215] WHEREAS, Paragraph (2) of L. R. S. 18:31 prescribes as one of the qualifications for eligibility for registration as a voter that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government"; and,

WHEREAS, in order to afford a standardized, universally applied procedure for determining that applicants for registration as voters possess a basic, elemental knowledge of our Constitution and Government and have the required understanding of the duties and obligations of citizenship under a republican form of government, a set of questions has been prepared and listed on ten cards, combinations of only six of said questions to be set forth on each card with the applicant for registration as a voter to choose one of said cards without any opportunity to see the questions contained on said cards displayed face-down before selecting same and said applicant to answer correctly at least four of the questions reflected on said card as a condition precedent to having his application for registration to vote accepted; and,

WHEREAS, a set of answers to all of said questions has been prepared in order that each Registrar of Voters and

his deputies throughout the state will not be required to exercise any discretion in respect thereto,

Now, Therefore, Be It Resolved by the State Board of Registration that in order to effect uniform procedures for the registration of voters throughout the state and to insure a system of non-discriminatory registration of voters with the view of affording all qualified voters the same opportunity for successful registration, as well as to insure that such voters shall have a minimum or basic knowledge of the duties and obligations of citizenship under a republican form of government required by the laws of this state, and by virtue of the authority vested in said Board by the provisions of L. R. S. 18:191 et seq. said Board does by these presents prescribe and promulgate general rules and regulations and methods of administration of the Board of Registration laws of this state, together with the neces- [fol. 216] sary forms of records, affidavits, and other documents to be utilized by all Registrars of Voters throughout the State of Louisiana, as follows:

(1) The item entitled "Instructions to Registrars", attached hereto and marked "Exhibit A" for identification herewith.

(2) The item entitled "Affidavit" and bearing the designation "Form No. 11", attached hereto and marked "Exhibit B" for identification herewith.

(3) The items entitled "Do not write on this card" and bearing the designation "Form 1 through Form 10" attached hereto and marked "Exhibit C" for identification herewith.

(4) The items entitled "Application for Registration Form" and bearing the designation "LR-1-C through LR-1-G", attached hereto and marked "Exhibit D" for identification herewith.

(5) The item entitled "Question on Citizenship Test of our Constitution and Government" containing 43 questions numbered consecutively, attached hereto and marked "Exhibit E" for identification herewith.

PLAINTIFF'S EXHIBIT No. 15H

(Article from—State Times—May 9, 1921.)

(See Opposite) ☞

PLAINTIFF'S EXHIBIT No. 15 I

(Article from—New Orleans States—June 12, 1921.)

(See Opposite) ☞

(6) The item entitled "Answers to Questions on Citizenship Test of our Constitution and Government", attached hereto and marked "Exhibit F" for identification herewith.

The full texts of all of said exhibits are made a part of this resolution to the same extent as if all of said exhibits were copied herein in extenso.

BE IT FURTHER RESOLVED that the Director of Registration be and he is hereby authorized and directed to change and from time to time to rearrange the combinations of questions to be reflected by the cards from which the applicant for registration shall select a combination of six of the questions contained in Exhibit E.

[fol. 217] BE IT FURTHER RESOLVED that the Registrars be and they are hereby authorized and directed to change and from time to time to rearrange the Form LR-1 for application for registration provided, however, that the said application form contain the information required by Act 63 of 1962, LSA-R. S. 18:32.

BE IT FURTHER RESOLVED that the Director of Registration be and he is hereby authorized and directed to distribute copies of this resolution and all of the exhibits attached hereto and made a part hereof to all Registrars of Voters throughout the state with an appropriate letter of transmittal.

BE IT FURTHER RESOLVED that all resolutions of the State Board of Registration in conflict herewith, together with the exhibits thereto attached, be and said resolutions and said exhibits are hereby revoked, recalled, repealed and superseded by the provisions of this resolution.

CERTIFICATE

We, the undersigned members of the State Board of Registration, created and constituted by Article VIII, Section 18, of the Constitution of Louisiana, as last amended pursuant to Act 622 of 1960, do hereby certify that the above and foregoing resolution was duly adopted at a meeting of said Board of Registration held at the State Capitol Build-

ing in the Parish of East Baton Rouge, State of Louisiana, on the 3rd day of Aug., 1962, at which the undersigned members of said Board of Registration were present and voting.

THUS DONE AND SIGNED at the State Capitol Building in Baton Rouge, Louisiana, on this the 3rd day of Aug., 1962.

/s/ J. H. DAVIS
Governor

/s/ C. C. AYCOCK
Lieutenant Governor

/s/ J. THOS. JERVEL
Speaker of House of Representatives

[fol. 218]

*Resolution of The*
*State Board of Registration*

WHEREAS, the State Board of Registration, created and established by Article VIII, Section 18, of the Constitution of Louisiana, is authorized and empowered by L. R. S. 18:191 et seq. to prescribe general rules and regulations, duly promulgated, and the character and forms of records, affidavits and other documents necessary or proper, in its opinion, to carry into effect the voter registration laws of this state; and,

WHEREAS, Article VIII, Section 1, of the Constitution of Louisiana, as last amended pursuant to Act 613 of 1960, prescribes qualifications for voting in this state and Section 32 of Title 18 of the Louisiana Revised Statutes of 1950 prescribes the form to be used for application for registration; and,

WHEREAS, it is in the public interest to standardize registration procedures throughout the state, with the view of relieving all Registrars of Voters and their deputies of all discretion in determining the qualifications of applicants for registration, thus lightening the burdens of said Registrars and deputies as well as insuring a non-discriminatory registration system, to be universally applied to the end that all qualified applicants be registered to vote; and,

WHEREAS, a set of instructions to Registrars and their deputies, outlining each step to be taken in the registration process, has been prepared with the view of insuring a uniform application of the registration laws applicable to the registration of voters; and,

WHEREAS, the aforementioned Article VIII, Section I, of the Constitution of Louisiana, in Paragraph (d) thereof, prescribes as one of the qualifications for voting in this state that a person seeking to qualify "must understand the duties and obligations of citizenship under a republican form of government"; and,

WHEREAS, Paragraph (2) of L. R. S. 18:31 prescribes as one of the qualifications for eligibility for registration as a voter that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government"; and,

WHEREAS, in order to afford a standardized, universally applied procedure for determining that applicants for registration as voters possess a basic, elemental knowledge of our Constitution and Government and have the required understanding of the duties and obligations of citizenship under a republican form of government, a set of questions has been prepared and listed on ten cards, combinations of only six of said questions to be set forth on each card with the applicant for registration as a voter to choose one of said cards without any opportunity to see the questions contained on said cards displayed face-down before selecting same and said applicant to answer correctly at least four of the questions reflected on said card as a condition precedent to having his application for registration to vote accepted; and,

WHEREAS, a set of answers to all of said questions has been prepared in order that each Registrar of Voters and his deputies throughout the state will not be required to exercise any discretion in respect thereto.

NOW, THEREFORE, BE IT RESOLVED by the State Board of Registration that in order to effect uniform procedures for the registration of voters throughout the state and to insure a system of non-discriminatory registration of voters

with the view of affording all qualified voters the same opportunity for successful registration, as well as to insure that such voters shall have a minimum or basic knowledge of the duties and obligations of citizenship under a republican form of government required by the laws of this state, and by virtue of the authority vested in said Board by the provisions of L. R. S. 18:191 et seq. said Board does by these presents prescribe and promulgate general rules and regulations and methods of administration of the Board of Registration laws of this state, together with the necessary forms of records, affidavits, and other documents to be utilized by all Registrars of Voters throughout the State of Louisiana, as follows:

(1) The item entitled "Instructions to Registrars," attached hereto and marked "Exhibit A" for identification herewith.

(2) The item entitled "Affidavit" and bearing the designation "Form No. 11," attached hereto and marked "Exhibit B" for identification herewith.

(3) The items entitled "Do not write on this card" and bearing the designation "Form 1 through Form 10" attached hereto and marked "Exhibit C" for identification herewith.

(4) The items entitled "Application for Registration Form" and bearing the designation "LR-1-C through LR-1-G," attached hereto and marked "Exhibit D" for identification herewith.

(5) The item entitled "Question on Citizenship Test of our Constitution and Government" containing 43 questions numbered consecutively, attached hereto and marked "Exhibit E" for identification herewith.

(6) The item entitled "Answers to Questions on Citizenship Test of our Constitution and Government," attached hereto and marked "Exhibit F" for identification herewith.

The full texts of all of said exhibits are made a part of this resolution to the same extent as if all of said exhibits were copied herein in extenso.

BE IT FURTHER RESOLVED that the Director of Registration be and he is hereby authorized and directed to change and from time to time to rearrange the combinations of questions to be reflected by the cards from which the applicant for registration shall select a combination of six of the questions contained in Exhibit E.

BE IT FURTHER RESOLVED that the Registrars be and they are hereby authorized and directed to change and from time to time to rearrange the Form LR-1 for application for registration provided, however, that the said application form contain the information required by Act 63 of 1962, LSA-R. S. 18:32.

BE IT FURTHER RESOLVED that the Director of Registration be and he is hereby authorized and directed to distribute copies of this resolution and all of the exhibits attached hereto and made a part hereof to all Registrars of Voters throughout the state with an appropriate letter of transmittal.

BE IT FURTHER RESOLVED that all resolutions of the State Board of Registration in conflict herewith, together with the exhibits thereto attached, be and said resolutions and said exhibits are hereby revoked, recalled, repealed and superseded by the provisions of this resolution.

LEGAL REQUIREMENTS FOR REGISTRATION

Section 1 of Article VIII of the Louisiana Constitution, as amended by the voters of the State in 1960, provides that the right to vote in Louisiana shall not exist except under the provisions of the State Constitution, and: That, to be an elector, a citizen shall demonstrate his ability to read and write by the reading and writing from dictation given by the Registrar of any portion of the preamble of the Constitution of the U. S. A., except that this provision shall not apply to persons who are registered as of November 8, 1960. That he shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government, and attached to the principles of both Constitutions; and, further, that he shall not have been convicted and sentenced for certain crimes; nor shall he have lived in common law marriage or have had an illegitimate child within the prescribed period.

[fol. 219]

Form No. 1

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The church that we attend is chosen—
   a. by the National Government.
   b. by ourselves.
   c. by the Congress.

2. The President must be at least—
   a. twenty-five years old.
   b. thirty years old.
   c. thirty-five years old.

3. It is important for every voter—
   a. to vote as others tell him to vote.
   b. to vote for the most popular candidates.
   c. to vote for the best qualified candidates.

4. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

5. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.

6. The President of the Senate gets his office—
   a. by election by the people.
   b. by election by the Senate.
   c. by appointment by the President.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 220]

Form No. 2.

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The Congress cannot regulate commerce—
   a. between States.
   b. with other countries.
   c. within a state.

2. The general plan of a State government is given—
   a. in the Constitution of the United States.
   b. in the laws of the Congress.
   c. in its own State constitution.

3. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

4. The President gets his authority to carry out laws—
   a. from the Declaration of Independence.
   b. from the Constitution.
   c. from the Congress.

5. Our towns and cities have delegated authority which they got from the—
   a. State.
   b. Congress.
   c. President.

6. A citizen who desires to vote on election day must, before that date, go before the election officers and—
   a. register.
   b. pay all of his bills.
   c. have his picture taken.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 221]

Form No. 3

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. Limits are placed on the right to vote by the—
   a. National Government.
   b. States.
   c. courts.

2. The Articles of Confederation are—
   a. the Constitution we now have.
   b. a plan for State government.
   c. an early plan of government for the original 13 States.

3. The mail carrier is paid by the—
   a. city.
   b. State.
   c. United States Government.

4. The President is elected—
   a. for four years.
   b. for six years.
   c. for life.

5. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

6. The Congress cannot establish—
   a. churches.
   b. courts.
   c. banks.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 222]

Form No. 4

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

2. The President is elected—
   a. by the Congress.
   b. by the direct vote of the people.
   c. by the people through electors.

3. We usually decide public questions in the United States by a vote of the—
   a. few.
   b. majority.
   c. male citizens.

4. Bad government in a democracy is possible if the people—
   a. make wise votes.
   b. forget to vote.
   c. do not stay at home.

5. A government in which the people delegate authority to chosen officials is—
   a. a totalitarian state.
   b. a republic.
   c. a monarchy.

6. Laws for the District of Columbia are made—
   a. by the State of Maryland.
   b. by the Congress.
   c. by the people who live there.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 223]

Form No. 5

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The legislative branch of the State government—
   a. makes the laws for the State.
   b. tries cases in the courts.
   c. explains the laws.

2. Limits are placed on the right to vote by the—
   a. National Government.
   b. States.
   c. courts.

3. The powers granted to the National Government in the Constitution are called—
   a. delegated powers.
   b. denied powers.
   c. the final authority.

4. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

5. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.

6. Each State has as many Presidential electors as it has—
   a. Senators.
   b. Representatives.
   c. Senators and Representatives.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 224]

Form No. 6

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. In case of impeachment of the President, the officer who would preside at the trial is—
   a. the Vice President.
   b. the Speaker of the House of Representatives.
   c. Chief Justice of the United States.
2. Money is coined by—
   a. the States.
   b. the people.
   c. the National Government.
3. Our Constitution has been changed—
   a. by the President.
   b. by the Congress and the people.
   c. by the Supreme Court.
4. Limits are placed on the right to vote by the—
   a. National Government.
   b. States.
   c. courts.
5. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.
6. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 225]

Form No. 7

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The State governments have the authority to—
   a. admit new States into the Union.
   b. set up local governments within the State.
   c. declare war.

2. The Seventeenth Amendment states that Senators shall be elected by—
   a. the State legislatures.
   b. the people of the States.
   c. the Congress.

3. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.

4. Presidential candidates are nominated—
   a. by State Legislatures.
   b. by National Conventions.
   c. by the people.

5. The written statement of the things for which a political party stands is called the—
   a. ballot.
   b. platform.
   c. candidate.

6. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 226]

Form No. 8

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The number of Representatives from each State depends upon—
   a. the voters.
   b. the population.
   c. the electors.

2. The Senators and Congressmen from my State are elected by the—
   a. State legislature.
   b. voters.

3. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

4. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.

5. United States judges obtain their offices through—
   a. election by the people of their districts.
   b. appointment by the President without the approval of the Senate.
   c. appointment by the President with the advice and consent of the Senate.

6. A tax on the money a person receives in payment for his labor, or earnings from his property is—
   a. an income tax.
   b. a poll tax.
   c. a sales tax.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 227]

Form No. 9

DO NOT WRITE ON THIS CARD

Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.

1. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

2. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   c. the people.

3. All bills of revenue (tax) must begin in—
   a. the Senate.
   b. the Supreme Court.
   c. the House of Representatives.

4. Most States have a lawmaking body made up—
   a. of two houses.
   b. of one house.
   c. of the governor and the department heads.

5. The Members of the House of Representatives are called—
   a. judges.
   b. Congressmen.
   c. Senators.

6. The (U. S.) Supreme Court is made up of—
   a. 9 Justices.
   b. 6 Justices.
   c. 5 Justices.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 228]

Form No. 10

DO NOT WRITE ON THIS CARD

**Applicant must correctly answer any four of the following six questions so as to evidence an elemental knowledge of the Constitution and Government, an attachment thereto, and a simple understanding of the obligations of citizenship under a republican form of government.**

1. Limits are placed on the right to vote by the—
   a. National Government.
   b. States.
   c. courts.

2. The name of our first President was—
   a. John Adams.
   b. George Washington.
   c. Alexander Hamilton.

3. The judges of the national courts hold office—
   a. for five years.
   b. for life if they obey the laws.
   c. for twenty years.

4. The tax we pay on our property is—
   a. a business tax.
   b. a property tax.
   c. an inheritance tax.

5. The chief work of the Congress is to—
   a. make the laws for the Nation.
   b. explain the laws.
   c. make treaties.

6. The system of courts in a State is called—
   a. the executive branch of the government.
   b. the State judiciary.
   c. the Senate.

Applicant's answers must be provided on Form No. 11 furnished by the Registrar for permanent records.

*This card must be returned to the Registrar*

[fol. 229]

Form No. 11

AFFIDAVIT

Question Form Selected
Circle one

....., Louisiana Date .....

1 6 I do solemnly swear that I will faithfully and fully abide by the laws of this State and that I am well disposed to the good order and happiness thereof.

2 7

Sworn to and subscribed before me this

3 8

..... day of ..... 196....

4 9

.....

5 10 (Deputy Registrar)

.....
Applicant's Signature

"Applicant shall demonstrate his ability to read and write from dictation by the Registrar of Voters from the Preamble to the Constitution of the United States of America."

PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. (Article VIII, 1 (c) (7) La. Constitution)

## CITIZENSHIP TEST FOR REGISTRATION

**Circle letter indicating your answers to the four numbered questions you have chosen.**

1 — a b c  3 — a b c  5 — a b c
2 — a b c  4 — a b c  6 — a b c

(La. Constitution, Article VIII, Sec. 1 (d) and LRS 18:31 (2)

(The above qualification test and a registration application form provided for by Act 63 of 1962, (Form LR-1), were received by me from the ..... Parish Registrar of Voters upon my request to register, and I have signed both for acknowledgement and identification with my application to register.)

Date: ..... 196....
Ward ..... Precinct .....

.....
Applicant for Registration
Address .....

(Over)

[fol. 230]

## ANSWERS TO CITIZENSHIP TESTS ON OUR CONSTITUTION AND GOVERNMENT

(Letters in parentheses denote proper answers)

1. The Constitution of the United States places the final authority in our Nation in the hands of—
   a. the national courts.
   b. the States.
   (c.) the people.

2. Limits are placed on the right to vote by the—
   a. National Government.
   (b.) States.
   c. courts.

3. The powers granted to the National Government in the Constitution are called—
   (a.) delegated powers.
   b. denied powers.
   c. the final authority.

4. Our towns and cities have delegated authority which they get from the—
   (a.) State.
   b. Congress.
   c. President.

5. The State governments have the authority to—
   a. admit new States into the Union.
   (b.) set up local governments within the State.
   c. declare war.

6. The chief work of the Congress is to—
   (a.) make the laws for the Nation.
   b. explain the laws.
   c. make treaties.

7. The Members of the House of Representatives are called—
   a. judges.
   (b.) Congressmen.
   c. Senators.

8. The Senators and Congressmen from my State are elected by the—
   a. State legislature.
   (b.) voters.

9. The judges of the national courts hold office—
   a. for five years.
   (b.) for life if they obey the laws.
   c. for twenty years.

[fol. 231]

10. The legislative branch of the State government—
   (a.) makes the laws for the State.
   b. tries cases in the courts.
   c. explains the laws.

11. A citizen who desires to vote on election day must, before that date, go before the election officers and—
    (a.) register.
    b. pay all of his bills.
    c. have his picture taken.

12. The written statement of the things for which a political party stands is called the—
    a. ballot.
    (b.) platform.
    c. candidate.

13. Bad government in a democracy is possible if the people—
    a. make wise votes.
    (b.) forget to vote.
    c. do not stay at home.

14. The Articles of Confederation are—
    a. the Constitution we now have.
    b. a plan for State government.
    (c.) an early plan of government for the original 13 States.

15. The church that we attend is chosen—
    a. by the National Government.
    (b.) by ourselves.
    c. by the Congress.

16. Our Constitution has been changed—
    a. by the President.
    (b.) by the Congress and the people.
    c. by the Supreme Court.

17. The Seventeenth Amendment states that Senators shall be elected by—
    a. the State legislatures.
    (b.) the people of the States.
    c. the Congress.

18. Laws for the District of Columbia are made—
    a. by the State of Maryland.
    (b.) by the Congress.
    c. by the people who live there.

[fol. 232]

19. The President of the Senate gets his office—
    (a.) by election by the people.
    b. by election by the Senate.
    c. by appointment by the President.

20. The mail carrier is paid by the—
    a. city.
    b. State.
    (c.) United States Government.

21. Presidential candidates are nominated—
    a. by State Legislatures.
    (b.) by National Conventions.
    c. by the people.

22. The President is elected—
    a. by the Congress.
    b. by the direct vote of the people.
    (c.) by the people through electors.

23. The President must be at least—
    a. twenty-five years old.
    b. thirty years old.
    (c.) thirty-five years old.

24. The President gets his authority to carry out laws—
    a. from the Declaration of Independence.
    (b.) from the Constitution.
    c. from the Congress.

25. The President is elected—
    (a.) for four years.
    b. for six years.
    c. for life.

26. The general plan of a State government is given—
    a. in the Constitution of the United States.
    b. in the laws of the Congress.
    (c.) in its own State constitution.

27. Most States have a lawmaking body made up—
    (a.) of two houses.
    b. of one house.
    c. of the governor and the department heads.

28. The system of courts in a State is called—
    a. the executive branch of the government.
    (b.) the State judiciary.
    c. the Senate.

[fol. 233]

29. The name of our first President was—
    a. John Adams.
    (b.) George Washington.
    c. Alexander Hamilton.

30. Money is coined by—
    a. the States.
    b. the people.
    (c.) the National Government.

31. The Congress cannot regulate commerce—
    a. between States.
    b. with other countries.
    (c.) within a State.

32. The Congress cannot establish—
    (a.) churches.
    b. courts.
    c. banks.

33. A government in which the people delegate authority to chosen officials is—
    a. a totalitarian state.
    (b.) a republic.
    c. a monarchy.

34. We usually decide public questions in the United States by a vote of the—
    a. few.
    (b.) majority.
    c. male citizens.

35. The (U. S.) Supreme Court is made up of—
    (a.) 9 Justices.
    b. 6 Justices.
    c. 5 Justices.

36. United States judges obtain their offices through—
    a. election by the people of their districts.
    b. appointment by the President without the approval of the Senate.
    (c.) appointment by the President with the advice and consent of the Senate.

37. Each State has as many Presidential electors as it has—
    a. Senators.
    b. Representatives.
    (c.) Senators and Representatives.

[fol. 234]

38. The number of Representatives from each State depends upon—
    a. the voters.
    (b.) the population.
    c. the electors.

39. All bills of revenue (tax) must begin in—
    a. the Senate.
    b. the Supreme Court.
    (c.) the House of Representatives.

40. It is important for every voter—
    a. to vote as others tell him to vote.
    b. to vote for the most popular candidate.
    (c.) to vote for the best qualified candidates.

41. In case of impeachment of the President, the officer who would preside at the trial is—
    a. the Vice President.
    b. the Speaker of the House of Representatives.
    (c.) Chief Justice of the United States.

42. A tax on the money a person receives in payment for his labor, or earnings from his property is—
    (a.) an income tax.
    b. a poll tax.
    c. a sales tax.

43. The tax we pay on our property is—
    a. a business tax.
    (b.) a property tax.
    c. an inheritance tax.

[fol. 235]

PLAINTIFF'S EXHIBIT No. 20A

No. 7881

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UNITED STATES OF AMERICA, Plaintiff,

vs.

ASSN. OF CITIZENS COUNCILS, *et al.*, Defendant.

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EXCERPTS OF PROCEEDINGS

[fol. 236] MRS. PAULINE A. CULPEPPER, called as a witness by counsel for the Government, on cross examination, being first duly sworn by the Clerk, testified as follows:

Cross examination.

By Mr. Owen:

Q. State your name?
A. Pauline A. Culpepper.
Q. And your age?
A. Forty-six.
Q. Your occupation?
A. Registrar of Voters, Bienville, Parish.
Q. Mrs. Culpepper, let me direct your attention to the period of about September 25, 1956, to about October 9, 1956. Were any affidavits filed with you challenging the registration status of registered voters in Bienville Parish during that period?
A. Yes.

[fol. 237] Q. Do you recall what day or dates these affidavits were filed with you?
A. 26th through the 28th.

The Court: Of September?
The Witness: Yes, sir.

By Mr. Owen:

Q. 1956?

A. Yes, sir.

Q. At this time, were there any individuals who were registered voters in the Parish who came to your office to review your registration cards?

A. During those dates?

Q. From the 25th through October 9th?

A. Yes.

Q. You recall when they came to your office?

A. You mean what time?

Q. What day?

A. What day of the month?

Q. Yes.

A. It was either the 26th or the 28th.

Q. What time of day was it?

A. After office hours.

Q. How many days during that period were these indi-
[fol. 238] viduals there?

A. I believe three nights.

Q. You ordinarily keep your office open after office hours?

A. No.

Q. Why, on this occasion, did you keep your office open after office hours?

A. I was complying with the State law. I don't have time for anyone to come in to inspect the records during office hours. I can come in after office hours.

Q. Did anyone contact you and ask you to come in and stay after office hours?

A. Yes, sir.

Q. Did anyone contact you?

A. Yes, sir.

Q. Who contacted you?

A. Jerry Butler.

Q. Do you know Mr. Butler pretty well?

A. Yes, sir.

Q. Do you know whether he is a member of the Arcadia Citizens Council?

A. No.

Q. These three evenings during which these people were in your office—first of all, who was there?

A. I don't recall who all was there.

[fol. 239] Do you recall anyone who was there?

A. Yes.

Q. Who do you recall that was there?

A. Mr. Butler, Mr. Reeves, Mr. Caskey, Mr. Taylor, Mr. Williams, Mr. Phillips, Mr. Walker, Mr. Woodward. I believe that's all I can remember.

Q. State whether or not Mr. Kettler, Leon Franklin Kettler was there?

A. Yes.

Q. Mr. Charles E. Merritt?

A. Yes.

Q. Mr. Archer Franklin Merritt?

A. Yes, sir.

Q. I believe you stated Mr. Walker was there?

A. Yes.

Q. Mr. Paul Britton Phillips?

A. Yes.

Q. Mr. R. E. Woodward?

A. Yes, sir.

Q. Joe Bryan Williams?

A. Yes, sir.

Q. Hugh Pearson?

A. Yes, sir.

Q. I believe you stated Mr. Reeves was there?

A. Yes, sir.

[fol. 240] Q. Mr. Robert Lamar Taylor?

A. Yes, sir.

Q. Mr. Forrest Riley McCallister?

A. Yes, sir.

Q. Mr. Walter Leonard Dance?

A. Yes, sir.

Q. Mr. John Alexander Bridges?

A. Yes, sir.

Q. I believe you testified Mr. Butler was there?

A. Yes, sir.

Q. Do you know each of these individuals?

A. Yes, sir.

Q. Have you known most of them for quite some time?

A. Yes.

Q. Would you say you are, so to speak, friends of each of these individuals as opposed to being mere acquaintances?

A. Well, not all of them.

Q. Some of them?

A. Yes, sir.

Q. Mrs. Culpepper, what did these people do in your office?

A. They inspected the registration rolls.

Q. Were you there all the time?

A. Yes, sir.

Q. You say they inspected the registration rolls. What [fol. 241] do you mean?

A. The application cards.

Q. They inspected the application cards?

A. Yes, sir.

Q. In your office, how do you have these application cards?

A. I have them filed by Ward and Precinct, alphabetically.

Q. How are they filed? Are they in a filing cabinet?

A. Yes, sir.

Q. Are they all together?

A. They are in different drawers.

Q. These people who were inspecting the records, you stated you were there when they did it?

A. Yes, sir.

Q. Will you describe what they did?

A. I pulled the drawers out myself. They were in a little filing cabinet. I took them out and set them on a counter and they looked them over.

Q. You looked the cards over?

A. No, they did.

Q. Mrs. Culpepper, can you recall which of the people who were there that were looking at the cards, or were all of them looking at the cards?

A. Yes, I believe so.

[fol. 242] Q. All of them were looking at the cards?

A. As far as I know.

Q. Do you know what they did?

Mr. Dalton: May it please the Court, maybe he should specify the night. There were three nights, and maybe it would help Mrs. Culpepper, Your Honor.

The Court: I believe I would be a little more specific.

Another thing I might interrupt to ask at this time: were all cards from a given precinct kept together as a group, regardless of race?

The Witness: No.

The Court: They were separated according to negro and white?

The Witness: No, sir, they were all filed together.

The Court: That is what I asked you. They were kept together by precinct and ward?

The Witness: Yes, sir, alphabetically.

By Mr. Owen:

Q. On the first night these individuals came into your office, you testified they examined the registration cards. What did they do? Did they simply examine them, or [fol. 243] what did they do?

A. They just sat down and went through the file. They looked the cards over and pulled them out.

Q. Do you know whether or not they looked at all the cards?

A. I don't know.

Q. They pulled them out?

A. I don't know whether they pulled them out. They looked through the cards. I pulled the drawer out and gave it to them.

Q. Did they pull some of the cards out of your files?

A. I am sure they did.

Q. What did they do with them?

A. They made the affidavits from the cards.

Q. And then what did they do?

A. They made the affidavits that challenged their registration.

Q. Did they give you the affidavits?

A. Yes, sir.

Q. With the cards?

A. Yes, sir.

Q. Was this same procedure followed on the second night?

A. Yes, sir.

Q. Was this same procedure followed on the third night?

[fol. 244] A. Yes, sir.

Q. When they gave the affidavit, was the card attached to the affidavit when they gave it to you?

A. Yes, sir.

Q. When they gave you the affidavit, was it signed?

A. No.

Q. It was not signed?

A. No.

Q. What did you do then?

A. Well, they had to sign the affidavit in my presence.

Q. Did you place them under oath?

A. I read the affidavit to them.

Q. It is correct that the people who signed the affidavits came to you, you knew them, and they signed them in front of you?

A. They were my friends.

Q. And on these affidavits, did you sign them as the attesting witness?

A. I signed it as the Registrar.

Q. After you accepted these affidavits together with the cards, what did you do with the cards and affidavits?

A. I made up the citations to erase and mailed them within forty-eight hours to the challenged registrant.

Q. Where did you get the information to place on the citation to erase?

[fol. 245] A. I have a copy of the State Registration Laws.

Q. Information as to the blanks which are on the citations to erase, where did you get the information to fill in?

A. Off the cards and off the challenge.

Q. Do you recall, Mrs. Culpepper, when you mailed these citations?

A. I mailed them within forty-eight hours.

Q. Forty-eight hours from each of the three days?

A. Yes, sir. I did not mail them all at the same time, I don't believe.

Q. In other words, on the third day, you are certain that within forty-eight hours after the third day the citations were all mailed, is that right?

A. Yes, sir.

Q. When you received the cards with the affidavits of challenge—together with the affidavits of challenge to prepare your notice to erase, did you see any check marks on the cards?

A. Yes.

Q. Were they red check marks?

A. Yes.

Q. Had you put these red check marks on the cards?

A. No.

Q. Who put the red check marks on the cards?

[fol. 246] A. The one that did the challenging.

Q. What did the red check marks signify?

A. Errors.

Q. Errors in the registration card?

A. Yes, sir.

Q. It is correct that the citation to erase required the voter to return to your office within ten days?

A. That is correct.

Q. What was he supposed to do?

A. To appear with three witnesses, three bonafide registered voters of the Parish, to sign an affidavit that they were legally registered. That would put them back on the rolls.

Q. Would you state, approximately, how many of these affidavits together with the cards that you received from these individuals?

A. Something around 600.

Q. Of this 600, how many were negroes?

A. I don't recall.

Q. Within this ten day period, were there any voters who had been challenged who returned to your office to check on the challenges?

A. Yes, sir.

Q. Were there any negro voters who returned to your office?

[fol. 247] A. Yes, sir.

Q. How many during this period? How many negro voters returned to your office?

A. I don't recall.

Q. Was the number more than ten?

A. I just don't recall.

Q. Was the number—

A. I didn't keep any record of it.

Q. Have you ever talked to the F.B.I.?

A. Yes.

Q. About this matter?

A. Yes.

Q. You recall having stated to an agent of the F.B.I. that approximately a hundred persons returned to check on their affidavits of challenge?

A. I don't recall making that statement.

Q. On your registration card, Mrs. Culpepper, is there any signifying mark on the card which would identify the cards of negroes?

A. Yes.

Q. What is that mark?

A. I placed a red "C" up in the left-hand corner of the card.

Q. Why was this mark to identify the negroes placed on the card?

[fol. 248] A. I placed it there for my own convenience.

Q. Is there any particular reason why you need to know?

A. Well, in going through the roll and making up lists and making my monthly reports, and things like that, I could keep up with them better.

Q. In other words, you state that in going through the rolls—you mean the cards?

A. The cards.

Q. You periodically have to go through these cards?

A. Well, at that time, we didn't have a permanent registration and I was making up lists for the different elections and it was just convenient, is the reason, I placed it there. Just like in bond elections, when I put the amount of the assessment on the cards.

Q. Let me direct your attention to the Presidential election in November, 1956.

When would you make up the list for that election?

A. I don't recall.

Q. Ordinarily, when you were under a system of periodic registration, how long before the election was the list made up?

A. I would make it sometimes during the thirty days when the books were closed.

Q. The presidential election of 1956—November, 1956, —state whether or not it was necessary for you to make up [fol. 249] a list during the thirty day period prior to that election?

A. I am sure it was.

Q. Do you recall whether this list was made up to include the persons who were erased from the registration rolls during that period?

A. I am sure it was not. It was not made up with their names on it.

Q. In your master file—your file of registration cards, at this time when you went through the cards in the thirty day period—the cards of persons who had been challenged had been pulled out of the file?

A. I just left them out until the ten day period was up.

Q. And you did not put them back in?

A. Until the ten day period was up. If any of them came in, if they came in with their three witnesses, I would put them back on the roll.

Q. Was anybody put back on the rolls?

A. No.

Q. Returning for a moment to this red "C", which you say is in the upper left-hand corner of the card—

Mr. Dalton: May it please the Court, all this previous testimony about the making up of the rolls, as I understand it, the date of the challenges—I am trying to get it straight-[fol. 250] ened out in my mind?

The Court: The date of the challenging is the 26th through the 28th of September.

It would be approximately from October 7th to November 6th, the thirty days when the books were closed when she made it up.

The Witness: If the election was November 6.

The Court: Yes.

The Witness: I would make it between October 7 and November 7.

By Mr. Owen:

Q. Returning for a moment to this red "C", which is on the card, was that identification mark on the card when these people came to your office and examined the registration rolls?

A. Yes, sir.

Q. On each of the negro cards?

A. Yes, sir.

Q. You recall, Mrs. Culpepper, whether or not there was an election in October, 1956?

A. I believe we had a representative election.

The Court: Was that a special election?

The Witness: Yes, sir.

[fol. 251] By Mr. Owen:

Q. You recall whether or not that election was on October 16, 1956?

A. It was either the 16th or 26th of October.

Q. And in the thirty day period prior to this election, state whether or not you were required to make up the registration lists?

A. Yes, sir.

Q. From your master file?

A. Yes, sir.

The Court: Also, during that thirty day period, your rolls were closed, were they not?

The Witness: Yes, sir.

The Court: Which is required by the State law?

The Witness: Yes, sir.

The Court: Actually, your rolls were closed from October 6th or 26th until after the presidential election; is that right?

The Witness: I don't recall, Judge. The reason that I asked them to come to the office at night was because I was getting ready for an election, or I was registering people for an election. It was a three-day period, as well as I can recall, I was registering people.

[fol. 252] The Court: The State law requires you close your rolls thirty days prior to any election?

The Witness: Yes, sir.

The Court: So, if there was an election in the middle or latter part of October, you would have had to close your rolls thirty days prior to that?

The Witness: Yes, sir.

The Court: And if the presidential election was on the 6th or 7th, thirty days prior to that, there would have been an overlap and, actually, your rolls would have been closed for approximately six weeks rather than the ordinary thirty days?

Mr. Cashio: If it please the Court, under our interpretation, the closure is for a particular election. While the books were closed for a special election, they would have been open for the general election.

The Court: I understand what you mean, but they would not have been entitled to vote if they had not registered in that special election.

Mr. Cashio: That's right, sir.

Mr. Dalton: On the other hand, while the books were closed for the special election, they were eligible to vote in the presidential election.

[fol. 253] By Mr. Owen:

Q. You stated you had to make up rolls and reports.

Would you elaborate on what type of reports you have to make?

A. Well, I make a report of the number of registered voters, the number of white registered voters, the number of colored registered voters, the number of registered Democrats, the number of registered white Democrats—on the report it is "Democrat". The form is furnished by the State Department.

Q. How often do you make them?

A. Once a month.

The Court: Do you have any Republicans in Bienville Parish?

The Witness: Yes, sir, we have three in Bienville Parish.

The Court: What color are they?

The Witness: They are white.

By Mr. Owen:

Q. In making up these reports, your primary reference is to your master file; is that correct?

A. Yes.

* * * * * * *

[fol. 254] MRS. PAULINE A. CULPEPPER, recalled as a witness by counsel for the Government, on cross examination, having previously been duly sworn, testified further as follows:

Cross examination.

By Mr. Owen:

Q. Mrs. Culpepper, yesterday you testified there was a red "C" in the upper left-hand corner of the registration cards of negro voters.

Will you state when this identification mark was put on the card?

A. When the registrant registered.

Q. When the applicant registered?

A. That's right.

Q. You also testified during the period from about September 25th to 28th, Mr. Butler saw you and advised you of the proposed canvassing of your records.

You recall when Mr. Butler saw you?

A. I think it was on the morning of the 26th.

Q. What did he tell you?

[fol. 255] A. He told me some of the Citizens of the Parish wanted to come in and inspect the registration rolls.

Q. Mrs. Culpepper, with respect to the people who returned to check on the challenges, there were some people who returned; is that correct?

A. That is correct.

Q. You recall how many?

A. I have no idea. I didn't keep any records.

The Court: I am not clear as to exactly what you mean "by returning".

You mean on the second and third nights, or people who received the citations?

Mr. Owen: People who came in to answer the challenges.

By Mr. Owen:

Q. Isn't it a fact, Mrs. Culpepper, that some of the people who returned, or the people who did return to answer the challenge, you advised them they would need three duly registered in the Parish to sign, or witness, or swear that they were legally registered?

A. That's right.

Q. And you told them also that these persons who did witness for them could not be persons who had been challenged?

[fol. 256] A. That is correct.

The Court: The Court was advised at the pre-trial conference that only three negroes came back to answer the challenges. How are you going to prove that if Mrs. Culpepper doesn't know?

Mr. Dalton: That was an error on my part, Your Honor. Mrs. Culpepper distinctly remembers that occasion when three returned. She testified in her deposition and on the stand she doesn't recall exactly how many returned, but there was a dozen or more. She doesn't remember telling an F.B.I. agent there were a hundred or more.

I am sorry I gave the Court the impression three is the only instance she vividly remembers.

The Court: All right.

By Mr. Owen:

Q. Let me get this clear, Mrs. Culpepper; when the people returned to answer the challenge, did you tell them all that they needed three duly qualified voters to sign a counter-affidavit?

A. Yes, sir, I did, and most of them their challenge with the citation to erase, and I read the citation to erase to each one of them, and they thoroughly understood they were to [fol. 257] bring in three bonafide registered voters.

Q. Did you also tell all of them that they could not bring in persons who had been challenged?

A. I don't recall whether I did or not.

Mr. Lassiter: May it please the Court, I object on behalf of Mrs. Culpepper to this line of questioning for the reason, in effect, this is an attack upon the Constitutionality of a State statute and it is not in the pleadings of the Government.

The Court: What it is, I think, more than an attack upon the Constitutionality of the State statute, is one interpretation of it as against another.

I think if you read the statute, on its face it says that the three persons who must be brought in with the challenged voter must be qualified registered voters, and in one sense Mrs. Culpepper could be correct in what she interpreted that law as meaning. In another sense, Mr. Owen may be correct in his interpretation; that until the ten days have finally passed, their names were not to be erased from the rolls.

Mr. Lassiter: May it please the Court, I agree with what Your Honor says, but I am still objecting to this line of questioning because he has not asked the witness her interpretation of this statute. Therefore, he can only be attack-
[fol. 258] ing the constitutionality of the statute.

The Court: Are you attacking the constitutionality of the statute?

If he says he is not, that ends it.

Mr. Owen: I have asked the witness what she told the people, and the law of Louisiana is the best evidence. Obviously, what she tells the people is her understanding of the law.

The Court: I will overrule the objection.

Proceed, Mr. Owen.

By Mr. Owen:

Q. Did you or did you not tell Agents of the Federal Bureau of Investigation that Mrs. Artomease Rollins appeared in your office with three other negro voters as witnesses to re-register but you did not allow them to re-register since they too had received affidavits of challenge?

A. I don't recall them coming in to re-register.
Q. To meet the citation?

The Court: To answer the challenge.
The Witness: No, not Rollins, No.

[fol. 259] By Mr. Owen:

Q. You did not?
A. No.
Q. Did you tell an agent of the Federal Bureau of Investigation that you subsequently received an opinion from the State Attorney General of Louisiana to the effect that individuals who had been challenged could actually vote within any time after ten days after receiving their challenge and could, therefore, be considered duly registered voters until ten days passed, at which time they would be taken off the rolls?

Mr. Lassiter: May it please the Court, we object to this line of questioning.
The Court: The opinion, itself, would be the best evidence.
Mr. Lassiter: If Your Honor please, he is asking impeachment questions, rather than asking the direct question whether or not she did receive such opinion.
The Court: I am ruling that the best evidence would be the Attorney General's opinion, itself.
Mr. Owen: I have the Attorney General's opinion. I want to ask Mrs. Culpepper if she told the F.B.I. this.
The Witness: No, I do not recall.
[fol. 260] Mr. Lassiter: May it please the Court, I want to put this objection in the record for the reason that is purely an impeachment question based on what we don't know because that agent has not so testified up to this point.
The Court: Insofar as the question of good faith on the part of Mrs. Culpepper is concerned, if she received this opinion after this thing happened, it certainly would not demonstrate any bad faith on her part. If she reasonably believed at the time she told the people they could not

answer challenges in that manner, then her good faith would not be impugnable.

By Mr. Owen:

Q. What was your answer to the previous question?

A. I don't recall that, but I could check back through my files if I had that opinion.

Q. Did you tell the agents of the F.B.I. that in view of this opinion which you received, you were in error in advising these people that the persons who were challenged could not witness for other people?

Mr. Lassiter: Same objection.

The Court: Same ruling.

The Witness: State your question again?

[fol. 261] (Whereupon the last question was read by the Reporter.)

The Witness: I do not recall.

The Court: Can you give us any idea of how many people came in to answer the challenges? I don't mean definitely 25 or 50, or anything of that sort, but approximately, how many came in?

The Witness: Your Honor, that has been four years.

The Court: I realize that.

The Witness: I didn't keep any record.

The Court: I know you didn't, but don't you have any idea?

The Witness: I don't have any idea whatsoever.

The Court: There were about 605 people challenged, colored and white. You don't have any idea what number came in?

The Witness: He says I made a statement to the F.B.I. there was something around a hundred. I am sure that wasn't that many people that came to my office.

The Court: You don't remember what percentage of whites and what percentage of colored came in?

The Witness: No, sir, I don't.

The Court: I believe you said there would be no record of how many came in?

[fol. 262] The Witness: No, sir, I didn't keep any records. I didn't know I was required to keep any record.

Mr. Owen: I mark this for the purpose of identification "Government's Exhibit 11". It purports to be the letter to Mrs. Sims attaching the opinion of the Attorney General about which we have talked. I obtained this from her and I reached a stipulation with these gentlemen that it could be admitted.

The opinion speaks for itself, it is a copy of the opinion that was attached to a letter sent to the Registrar of Grant Parish.

The Court: Any objection?

Mr. Dalton: We have no objection. We would like to point out this is as of October 6, 1956, and it is outside the period in question here.

(Whereupon the above described document was marked "G-11" and filed in evidence with the Clerk.)

By Mr. Owen:

Q. Did you contact any person who came back to your office to check on the challenge and advise them that you had made an error with respect to telling them that they needed three persons who had not been challenged to sign the counter-affidavits?

A. No.

[fol. 263] The Court: Would you have been permitted by State law?

Mr. Owen: Your Honor, 605 people were taken off the rolls. If this group of 605 people were erroneously told that they could not use persons who had been challenged as witnesses, Your Honor, the records will show, which are in evidence, most of these people were negroes and most of the negroes were challenged and they simply, obviously, could not get any other negroes to vouch for them.

The Court: Could she, after the ten day period, correct any mistakes she might have made in advising them of their rights under the State law?

Mr. Owen: As I say, again, if there is an error, if there is a practice, or the sinister motive would not control what she would be required to do under State law.

The fact is, these people were thrown off the rolls. If the result was discriminatory, Federal law is supreme and she would have to advise them she made a mistake and come back in, under Federal law.

The Court: We can cover that point later. Let us go on.

[fol. 264] By Mr. Owen:

Q. Mrs. Culpepper, did you bring your monthly reports with you?

A. Yes.

Q. Would you refer to your monthly reports.

First of all, what do your monthly reports reflect?

A. What do you want to know.

Q. What information is contained on the report?

A. The total number of registered Democrats, the total number of white Democrats, the total number of colored Democrats, the total number of registered Republicans, the total number of white Republicans, the total number of colored Republicans, the total number of registered other party, colored and white, and the total below, which would include all parties. The total of registered voters, the number of voters, white, the number of colored voters, number of white illiterate, the number of colored illiterate.

Q. Are your reports dated?

A. Yes, sir.

Q. Can you read the figures of the total number of persons registered as of September 26, 1956?

A. I can give you August 31, 1956.

Q. That is your latest report; is that correct? That is your latest report of that time?

A. Yes.

[fol. 265] Q. Would you read the figures of the total number of persons registered to vote in your Parish?

A. Five thousand eight hundred seventy-nine.

Q. Five thousand eight hundred seventy-nine white?

A. Five thousand two hundred eighty-four.

Q. The total number of colored voters?
A. Five hundred ninety-five.
Q. Will you take your next monthly report and identify the date on it?
A. September 30; this is September through October 16. I made this report October 16.
Q. 1956?
A. Yes, sir, October 16, 1956.
Q. Will you read the total number of registered voters?
A. The total number of registered voters is 5,317.
Q. The total number of white voters?

Mr. Dalton: If Your Honor please, may we inquire at this time the purpose of this line of questioning?
The Court: I think I know what it is, and I think you do, too.
Mr. Dalton: I mean, we have stipulated for the period under consideration for which discrimination is alleged. We have several stipulations as to the number of white and colored voters.
[fol. 266] The Court: He is giving like the damage suit lawyers do, a before and after picture.

By Mr. Owen:

Q. The total number of white voters?
A. Five thousand two hundred eighty-two.
Q. The total number of colored voters?
A. Thirty-five.
Q. Will you read the date of that report?
A. October 12, 1960.
Q. Give the totals for the voters?
A. Total number of registered voters, 5,210. Number of white voters, 5,184. Number of colored voters, 26.

Mr. Owen: In view of her testimony, I don't think it will be necessary to have her introduce her records.
The Court: That's right. You don't need to run up any more expense for photocopying.
What I want to know is was the registration card for each challenged voter handed to you along with the citation to erase?

Mr. Owen: She so testified.

The Court: Could you not have looked on each of those cards and seen the red "C" in the upper left-hand corner [fol. 267] on each card that was challenged?

Mr. Owen: Your Honor, Mrs. Culpepper said she placed it on there herself when they registered.

The Court: I know. At the time she issued the citations to erase pursuant to the challenges, could she not see the red "C" in the upper left-hand corner?

The Witness: I made the statement I did see.

The Court: Did you realize, Mrs. Culpepper, that about 95% of all those being challenged were colored.

The Witness: Judge, I don't have any choice.

The Court: I realize that, but did you realize that?

The Witness: Yes, I knew they were colored.

By Mr. Owen:

Q. Mrs. Culpepper, I hand you "G-10", a group of cards from that exhibit. Would you identify those cards—what group of cards is that?

Mr. Lassiter: At this point, if Your Honor please, if the purpose of questioning Mrs. Culpepper is for the purpose of showing discrimination as a whole, we object to the questioning on individual cards. First, we object to it for the reason that it is part of the whole, and the whole must show the entire picture. Second, the introduced by [fol. 268] the Government in this case, to this point, has proven conclusively by witnesses employed by the Government and for whom the Government has vouched, that there was no discrimination nor intention of those who filed these challenges.

Therefore, in order for Mrs. Culpepper to have knowledge or to be charged with the knowledge of discrimination, the Government must first prove discrimination.

The Court: Mr. Lassiter, it is true that the F.B.I. agents who testified yesterday quoted each of the individual defendants who have been interviewed by them to the effect that they intended no racial discrimination. What they say in that respect is not necessarily determinable. It is what they did, not what they say.

We are faced here with an allegation, whether they prove it or not remains to be seen, that 95% of the people who were challenged were negroes. If that is so, then under the jurisprudence, that would be very relevant to a decision by the Court.

Mr. Lassiter: I agree with that, Your Honor, but he is not staying with that. He wants to go into it in individual cards.

The Court: What is the purpose of this query, right now, Mr. Owen?

[fol. 269] Mr. Owen: Your Honor, I would like to show the Court through the witness the white persons who were challenged. The evidence will show 30% of them were non-residents. The evidence will also show an additional 5 or 6 are presently back on the rolls. So that, in effect, out of the total of 35 which were in this box—

The Court: That is of those who were challenged?

Mr. Owen: That is of those who were challenged, approximately 15 or 16 of them are left who were in the same position that the colored people were in who were challenged.

The Court: I will permit the evidence. That, I suppose, is going to go into the challenging as against the negroes?

Mr. Owen: I will go into the challenging against the negroes.

The Court: Are you planning to ask her, from her own familiarity with the records, approximately what percentage of whites were disqualified because of omissions, mistakes or mis-calculations on their registration cards at the time this took place?

Mr. Owen: Yes, sir. I would like to ask her that.

The Court: You are relying, of course, upon the case of [fol. 270] McIlveen as affirmed by the Supreme Court in re Thomas?

Mr. Owen: Yes, sir.

The Court: I presume you are going to try to make your proof as close to that as you possibly can?

Mr. Owen: Yes, sir. We have registration cards which we have photographed and which we have analyzed in the light of typical mistakes on the negro cards.

The cards speak for themselves in terms of evidence and we will plan—the cards are, in fact, in evidence now and as an aid to the Court we will give the figures which we arrived at.

The Court: Have you made any analysis of the white registration cards to see how many of them and what percentage had the same type of mistakes as the negro cards had? I think that would be very relevant.

Mr. Owen: Your Honor, we took pictures of all Ward 4, Precinct 1. We took pictures of all of Ward 6, which is the smallest ward. We also selected cards from each other ward and precinct in the parish. The selection quite candidly was done in a hurry and we will try to select cards to show these precincts were not clear of errors.

We tried to select some with errors, even though some we selected didn't have errors in view of the rapidity in [fol. 271] which we selected them.

Inasmuch as these cards are presently in evidence, I would like to hand this to the Court for the convenience of the Court.

I will give a copy of this to opposing counsel.

The Court: What is this?

Mr. Owen: Those are pictures of the general type of errors on negro cards on which the negroes were challenged.

Mr. Lassiter: Are you offering this in evidence?

Mr. Owen: No.

The Court: This is in the nature of a brief, is it not?

Mr. Owen: That's right, Your Honor.

Mr. Lassiter: That is an unusual way to handle a brief, if Your Honor please, by attaching what looks like evidence to me.

The Court: All these cards are in evidence.

Mr. Lassiter: That is only a portion of them, not all of them.

The Court: I understand that. You can point out in your brief contradictory evidence.

Mr. Lassiter: Eventually we will, Your Honor, but this [fol. 272] is a trial on the merits.

The Court: This is not a trial by jury. My mind will remain open until the briefs will be studied. I don't think I am being prejudiced by any of this.

Mr. Owen: Your Honor, in this connection, I would like to point out the first group—the first card "negro" is checked. The second card "colored" is checked. The third "brown" is checked. The fourth card "dark" is checked.

Mr. Lassiter: Your Honor, counsel is now testifying. This is going into the record.

The Court: I can see it for myself.

In this case, they checked the word "black", and frankly, that is what they have been wanting them to say all along.

Where they said "negro" or "dark", they said that was wrong.

Mr. Owen: Every possible answer was checked, Your Honor.

By Mr. Owen:

Q. Mrs. Culpepper, I hand you a group of cards which are "G-10"—part of that group—which purport to be cards of white applicants who were challenged; is that correct?

[fol. 273] Mr. Lassiter: May it please the Court, at this time, in addition to the objections we have already made, we wish to enter the objection in regard to questioning the witness on individual cards as to the eligibility or qualifications as a voter; that not only is this inappropriate examination, but also directly in the thick of the decision of the Fifth Circuit Court of Appeal as to the rights of individual voters in the case of Reddix v. Lucky and, in fact, it is pointed out in the opinion of the Attorney General which has been filed by the Government, that these people as individuals have a constitutional right to bring a suit in the State District Court having jurisdiction to correct any violations of their rights as voters.

Therefore, these questions as to the individual voters, or any selected group, for the reason that these groups, as counsel refers to them, are individuals selected by him and made into a group, and therefore—

The Court: Under the holding of the McIlveen case, as affirmed by the Supreme Court, it was expressly held, Mr. Owen, that the qualifications of individual voters was irrelevant.

Mr. Owen: I agree with that. In terms of a purge situation that is true.

[fol. 274] The Court: What this exhibit here is—

Mr. Owen: I am attempting to show the type of mistakes.

The Court: That's right, which, of course, affects the qualifications of the voters.

One of the types of qualifications of a voter is the way he fills out his card. In fact, that is the most important test, probably.

Mr. Owen: Your Honor, the purpose of showing mistakes on the cards is to determine whether there was discrimination.

The Court; Insofar as the same type of mistakes were made on white cards, which were not challenged, I think this was would be relevant.

Mr. Owen: That is true, and that is what our brief suggests. I simply wanted to show Your Honor the type of mistake we used in making our summary in our brief, which we gave you.

The Court: Insofar as Reddix v. Lucky is concerned, I believe the 1960 Civil Rights Statute, in authorizing the Attorney General to bring this type of suit, in effect, overruled that.

Mr. Lassiter: Your Honor, we can't tell until the Fifth Circuit passes on it again.

Mr. Owen: Your Honor, may I continue questioning the [fol. 275] witness on this matter?

The Court: Yes, sir.

Mr. Lassiter: I ask the Court to rule on the objection.

The Court: Let the objection be overruled. The objection and ruling will be made general.

By Mr. Owen:

Q. Have you looked at these?

A. Yes, sir.

Q. Would you read the name of the applicant and ward and precinct, for identification?

A. Mrs. Bertha Martin, Ward 1, Precinct 1, Arcadia, Louisiana:

Q. Was her name erased from the registration rolls?
A. Yes.
Q. For what reason?
A. Non-resident of Bienville Parish.
Q. Would you read the next one?
A. Artis Martin, Ward 1, Precinct 1.
Q. Was his name erased from the registration rolls?
A. Non-resident, yes.
Q. Is this Martin a white person?
A. Yes.
Q. Was the previous card, Mrs. Bertha Martin, a white [fol. 276] person?
A. Yes.
Q. What is the name and the color of the applicant on this card?
A. Mr. Jonah S. Cathey, Ward 1, Precinct 1.
Q. Was this person white or colored?
A. White.
Q. Was he erased from the registration rolls?
A. Yes.
Q. For what reason?
A. Non-resident.
Q. Read the name of that individual?
A. Clarence M. White.
Q. Ward and Precinct?
A. Ward 1, Precinct 5.
Q. Is he white or colored?
A. White.
Q. Was his name erased from the registration rolls?
A. Yes.
Q. For what reason?
A. Non-resident of the Parish.
Q. Read the name of the individual on that?
A. Wallace B. Ginn.
Q. Ward and precinct?
A. Ward 1, Precinct 5.
[fol. 277] Q. Is that individual colored or white?
A. White.
Q. Was he erased from the registration rolls?
A. Yes.

Q. For what reason?
A. Non-resident of Bienville Parish.
Q. Read the name of the individual whose card that is?
A. L. Danny Brown, Ward 1, Precinct 5.
Q. Is the individual white or colored?
A. White.
Q. Was the individual erased from the registration rolls of Bienville Parish?
A. Yes.
Q. For what reason?
A. Non-resident of the Parish of Bienville.
Q. Read the name of the next one?
A. George F. Phillips.
Q. The ward and precinct?
A. Ward 2, Precinct 2.
Q. Is the individual white?
A. Yes.
Q. Was he erased from the registration rolls?
A. Yes.
Q. For what reason?
A. Incorrect application.
[fol. 278] Q. Would you tell me what the letter on the back of this application is?
A. It has "Minnie Phillips" on it.
Q. Would you state what that letter is?
A. It was returned to my office.
Q. What does it contain?
A. The challenge. I assume that is what it is. It has not been opened, but it like letters I sent out at that time.
Q. Ordinarily, in the course of your business, when you send letters containing your challenges and they are returned, what does that indicate to you?
A. It would indicate that they had moved.
Q. Ordinarily, from the Parish?
A. Or sent it to the wrong address, one. Not necessarily moved from the Parish.
Q. Read the name of the next one?
A. Minnie Phillips.
Q. Ward and Precinct?
A. Ward 2, Precinct 2.
Q. What color?

A. White.
Q. Was she erased?
A. Incorrect application, yes.
Q. Would you identify the letter which is attached to [fol. 279] that card?
A. It was returned to my office.
Q. What does the letter contain?
A. The affidavit of challenge and the printed citation.
Q. The name of the next individual?
A. Will D. Campbell.
Q. Ward and Precinct?
A. Ward 2, Precinct 3.
Q. Is the individual white or colored?
A. White.
Q. Was he removed from the registration rolls?
A. Yes.
Q. For what reason?
A. Non-resident.
Q. What is that individual's name?
A. Mrs. Betty A. Huckabee.
Q. Her ward and precinct?
A. Ward 3, Precinct 1.
Q. Is the individual white or colored?
A. White.
Q. Was the individual removed from the registration rolls at one time?
A. Yes.
Q. For what reason?
A. Non-resident.
[fol. 280] Q. Would you identify the individual whose card that is?
A. Calbin Huckabee.
Q. The ward and precinct?
A. Ward 3, Precinct 1.
Q. The individual white or colored?
A. White.
Q. Was the individual removed from the registration rolls at one time?
A. Yes.
Q. What was the reason for removal?
A. Non-resident.

Q. Would you tell me the name of the individual whose card that is?

A. Elma W. Kirkham.

Q. What ward and precinct?

A. Ward 2, Precinct 3.

Q. Is the individual colored or white?

A. White.

Q. Can you tell me if you sent a citation of notice to erase this individual?

A. I am sure that I did. I don't recall right now with all this. I think I did.

The Court: While you are consulting, we might as well [fol. 281] take a fifteen minute recess.

(Short recess.)

The Court: While they are looking at these papers, Mrs. Culpepper, can you give us a rough estimate, throughout the Parish, of the number of white registration cards that contain the same types of miscalculations, errors, or misspellings as were contained in these negro cards that were challenged?

The Witness: Your Honor, I have no idea what the percentage would be.

The Court: Would you say it was a large percentage or small percentage or moderate percentage, or what?

The Witness: Well, I would be afraid to say until I checked my records.

The Court: Go ahead.

Mr. Owen: This is the group of all the rest of the white voters who were challenged at this time.

The Court: Put a slip on the outside of it and mark it "Challenged White Voters."

Mr. Lassiter: We would like to make the same objection.

The Court: Same ruling.

[fol. 282] By Mr. Owen:

Q. Mrs. Culpepper, let me direct your attention to the periodic registration period preceding the adoption of the permanent registration system.

Were there some cards of white voters which you accepted which contained mis-spellings?

A. Yes.

Q. Were there some cards of white voters which you accepted that contained incorrect answers?

A. Yes.

Q. Were there some cards of white viters which you accepted during this period which contained omitted answers?

A. Yes.

Q. Were there some cards of white voters which you accepted during this period which contained mis-spellings?

A. Yes.

Q. Were there some cards of white voters which you accepted during this period which contained incomplete answers?

A. What do you mean "incomplete"?

Q. I have reference to, for example, in their residence number they may put their box and not their city and state?

A. Yes.

Q. The blank on the card which requires residence and [fol. 283] any other blank which requires more than one word for the answer?

A. Yes.

Q. During this same period, did you ever accept any cards of white voters which contained abbreviations for the answers to the statements of color, sex, or party affiliation?

A. Yes.

Q. Mrs. Culpepper, I am handing you a photograph of a registration card of a person who was challenged and erased from the registration rolls.

Was that card filled out in the handwriting of the applicant?

A. No.

Q. Whose handwriting was it?

A. Myself.

Q. Did you accept any cards from white voters during the period to which we have previously referred which were not filled out by the applicant?

A. Yes.

Q. The question I have asked with respect to mistakes which you have accepted, will you state whether or not there are cards in your master files, which is, "G-9", which contain these errors?

A. Yes.

[fol. 284] Q. And they are presently registered and eligible to vote in Bienville Parish?

A. Yes.

Q. Directing your attention to about November, 1955, did you ever attend a meeting of the Police Jury, or were you called into a meeting of the Police Jury of Bienveille Parish?

A. Yes.

Q. What was the purpose of your being there?

A. It was at their special—not a special meeting, but their regular meeting. They called me in and asked me to comply with the registration laws with every registrant, and they also requested me to take one person at a time.

Q. Prior to that time—

A. And the reason they asked me to do that was because my office was so small and it would give the registrant time to fill out their card.

Q. Why did they ask you to comply with the registration law?

A. I don't know why they did.

Q. Had they ever asked you, prior to that time, since you had been in the office of the Registrar of Voters in Bienville Parish to comply with the registration law?

A. Yes, sir. I believe it was sometime in 1959.

Q. Prior to that time?

[fol. 285] A. No.

Q. Mrs. Culpepper, who pays your salary?

A. Half of my salary is paid by the governing body of the Parish, and half from the State.

Q. The governing body of the Parish is the Police Jury?

A. Yes.

Q. Returning for the moment to these people who came to your office to review your cards, did you or your agents, or your assistants, type out the affidavits of challenge?

A. No.

Q. Who did?

A. They had their own typist.

Q. Who hired them?

A. I have no idea.

Q. With respect to the adoption of the permanent registration system in Bienville Parish, will you describe the procedure whereby you affected transfer from periodic to permanent registration?

A. What do you mean?

Q. What did you do with respect to the persons who were registered to vote to get them on the permanent rolls?

A. You mean how I prepared my permanent registration?

Q. Yes.

Mr. Dalton: Your Honor, in the interest of brevity, we [fol. 286] have stipulated to that procedure.

Mr. Owen: I withdraw the question.

Mr. Dalton: We have also stipulated in conenction with his question as to why she was directed by the Police Jury to comply with the registration laws.

The stipulation reads that she was directed by the Police Jury to strictly enforce the registration laws.

She has always complied with them.

Mr. Owen: The stipulation doesn't cover what she understood as to why they made this request.

The Court: Go ahead.

By Mr. Owen:

Q. I hand you "G-12" which purports to be a page of the permanent certificates from one of the precinct registers in your Parish.

The Court: What is the purpose of this? To show the form of permanent registration?

Mr. Dalton: We are informed we stipulated to it—to the authenticity only.

Mr. Lassiter: I don't think counsel answered Your Honor's question as to the purpose.

[fol. 287] The Court: What is the purpose?

Mr. Owen: Your Honor, I offer this proof for two purposes, one: there is information on this card which

Mrs. Culpepper will testify to which she took from the registration cards in her file indicating she quite recently, after the purge, went through her cards to get this information.

For example, the birth, sex, color of eyes, mother's first and maiden name and town and name of the applicant; that is the first reason.

The second reason I believe it is relevant, it shows precisely what the registered voters in Bienville Parish who were not purged were required to do to get on permanent registration. They were not required to re-register. All they were required to do is simply sign their name to this certificate which we have stipulated she sent to them and returned to her.

This was the only effort that had to be made by the people who were on the rolls.

Mr. Dalton: The entire effort has been stipulated to, Your Honor.

Mr. Owen: Your Honor, the stipulation doesn't cover the information which appears on the card which she took from her registration books.

The Court: I will let you question her about that. It [fol. 288] may be repetitious. Let us hurry it up, please, sir.

By Mr. Owen:

Q. Mrs. Culpepper, the permanent registration certificates—you prepared these yourself—you, or your assistants?

A. Yes, sir.

Q. Where did you get the information which appears on the permanent certificates?

A. Off of the application cards.

Q. Was it necessary for you to go through the entire master files of application cards in your office to make this transfer to permanent registration to get the information on each certificate?

A. Yes.

Q. What was required of the voter to whom you sent this certificate to be placed on permanent registration?

Mr. Dalton: We have stipulated to that, Your Honor.
The Court: That has been stipulated.
Mr. Owen: I withdraw the question.
Your Honor, I would like to introduce "G-12" in evidence.
[fol. 289] The Court: Let it be filed.

(Whereupon the above described document was marked "G-12" and filed in evidence with the Clerk.)

Mr. Owen: Your Honor, I would like to reserve my right to recall Mrs. Culpepper on cross examination on other aspects of this case.
The Court: Why not take her in full now?
Mr. Owen: I feel, in terms specifically of the second aspect of this case, that I would prefer to have some of my other witnesses testify first.
The Court: All right.
[fol. 290] The Court: Do you have any more stipulations?
Mr. Owen: We are willing to stipulate with respect to two other witnesses, Mr. Ray Block and Mr. Don Quinn.
We will stipulate Mr. Block and Mr. Quinn were prepared to identify these ladies to Mrs. Culpepper in that Mr. Block actually talked to her and he told Mr. Quinn, who had been over there one time, and the ladies went back to school. On his way back, he told Mr. Quinn there wouldn't be any use to identify these people because he and Mr. Quinn were from different precincts than the ladies involved and that Mr. Quinn never confronted Mrs. Culpepper.
The Court: All right.

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Marie Kilgore, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?
A. My name is Marie Kilgore.
Q. What is your occupation?

A. My occupation is teaching school.

[fol. 291] Q. What educational qualifications do you have? How far did you get in school?

A. What do you mean?

The Court: How far did you go in school? What is your education?

The Witness: I have a Bachelor's degree.

The Court: From where?

The Witness: From Southern University.

By Mr. Owen:

Q. Anything else?

A. I have an M.A. degree.

The Court: From where?

The Witness: Columbia University.

The Court: Are those degrees in education?

The Witness: The M.A. degree is in student personnel administration.

By Mr. Owen:

Q. Will you state whether or not you are presently a registered voter in Bienville Parish?

A. No, sir.

Q. State whether or not you have ever attempted to reg-

[fol. 292] ister to vote in Bienville Parish?

A. Yes, I have.

Q. Do you recall when that was?

A. What do you mean?

The Court: When was it that you tried to register?

The Witness: I don't remember the date, but the first time I tried, I registered. I don't remember the date.

By Mr. Owen:

Q. Was it about a year ago, or two years ago?

The Court: She said the first time she tried she registered. That was in 1956? Is that right?

The Witness: Yes, sir.

The Court: And you were challenged?

The Witness: Yes, sir.

The Court: And since then, have you tried to re-register?

The Witness: Yes, sir.

The Court: When was that?

The Witness: I don't remember the date when it was.

[fol. 293] The Court: The approximate year and month?

By Mr. Owen:

Q. Was it over a year ago?

A. Oh, yes, it was over a year ago.

Q. Over two years ago?

A. Yes, I think so. This is 1960—I imagine so.

Q. Would you state in your own words what happened and what was required of you when you went to attempt to register?

The Court: Where was this? In Arcardia? That you attempted to re-register?

The Witness: Yes, sir.

By Mr. Owen:

Q. State in your own words what happened when you attempted to register in Arcardia.

A. Well, I didn't register. You mean, the second time?

Q. Yes.

A. I didn't register that time.

Q. What happened when you went to the Registrar's office?

A. I don't remember exactly just what happened.

[fol. 294] The Court: Why is it you were not allowed to register?

The Witness: I couldn't interpret something I read.

By Mr. Owen:

Q. You recall what you read?

A. No, I don't.

The Court: Was it part of the Constitution of Louisiana, or of the United States?

The Witness: I don't even remember that. It was out of a book.

By Mr. Owen:

Q. When you read whatever you were supposed to read, state whether or not the Registrar asked you some questions about it?

Mr. Dalton: Just a second. Your Honor, I objected to a leading question the other day despite when he asked questions of his witnesses to "state whether or not the Registrar did so-and-so". He is suggesting to the witness the answer, and that is a leading question. He can ask her what the Registrar did. I object to the question as leading.
[fol. 295] The Court: Put it this way: did the Registrar, or did she not, do so-and-so.

By Mr. Owen:

Q. Did the Registrar, or did she not, require you to interpret whatever it was you were to read?

A. Sir, as near as I can remember, I don't remember her just requiring me anything special.

Q. Did she ask you any questions?

A. No, she didn't ask me any questions.

Q. Did you try to tell her what you had read—what it was you had read?

A. As I remember, I said a few things about what I read. I don't even remember what that was.

Mr. Owen: No further questions.

The Court: Here is the Louisiana Constitution, Article 1, Section 2. Would you mind reading that?

The Witness: Right here?

The Court: Yes, read it to yourself.

Tell me what the meaning is of that first sentence there? Read it aloud and then tell me what the meaning is?

The Witness: "No person shall be deprived of life, lib-
[fol. 296] erty or property except by due process of law."

The Court: Tell me what that means?

The Witness: That means I shouldn't be deprived of life, liberty or property without the law has given the due process into it.

The Court: What does "due process" mean?

The Witness: As stated in the Constitution, it just means that I am not deprived of life, liberty and property except by due process of the law.

The Court: Would that contemplate court proceedings?

The Witness: I don't know.

The Court: The second sentence, read that out loud?

The Witness: "Except as otherwise provided in this Constitution, private property shall not be taken or damaged except for public purposes and after just and adequate compensation is paid."

The Court: What does that mean?

The Witness: This means to me—to me, this means, except as otherwise provided in this Constitution, private property shall not be taken or damaged except for public purposes—to me this means, when it becomes to the State of Louisiana private property is not going to be just taken from a person unless it is for the public benefit of the [fol. 297] State or the United States and then the person to whom that property belongs will adequate pay for it.

The Court: All right. Thank you.

Mr. Owen: We have no further questions.

Mr. Dalton: We have no questions.

The Court: You are excused.

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[fol. 298] THELMA M. TOBIN, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?

A. Thelma M. Tobin.

Q. Where do you live?

A. I live at Castor, Louisiana.

Q. What is your occupation?

A. Teaching.

Q. What are your educational qualifications?

A. I received by Bachelor of Arts degree in elementary education from Southern University, Baton Rouge, Louisiana; Master of Arts degree in elementary education from Stanford University, Pala Alto, California.

Q. At any time yesterday during the taking of testimony, were you sitting in this courtroom?

A. I wasn't sitting in here yesterday during that time.

Q. Are you a registered voter in Bienville Parish?

A. No, sir, I am not a registered voter in Bienville Parish.

Q. In recent years, have you ever attempted to register?

[fol. 299] A. Yes, sir, I have.

Q. Where was this?

A. In Arcadia, Louisiana.

Q. When was it? Do you recall?

A. Well, I can give you from the beginning. I registered in 1951, re-registered in 1953, and in 1956, I received a citation and I attempted to re-register in 1957.

Q. In Arcadia, just state in your own words what happened when you went to the office of the Registrar in Arcadia to attempt to register the last time?

A. The last time I went to re-register, I gave my name, and upon doing so, I was asked for identification and I gave my driver's license. Then I was given the Constitution to read a portion and interpret same.

Q. Did you read it?

A. Yes, sir, I did read it.

Q. Did you attempt to interpret it?

A. Yes, sir, I attempted to interpret it.

The Court: With what subject did it deal?

The Witness: If I remember right, it dealt with rolling stock.

By Mr. Owen:

Q. I will give you a copy of Louisiana Constitution and [fol. 300] see if you can identify that page.

A. Yes, sir, I recognize it.

Q. What is it?

A. Section 16, Article 10.

Q. To the best of your recollection, this is the provision she gave to you; is that correct?

A. Yes, sir.

Q. Would you mind reading that provision?

The Court: Out loud, you mean?

By Mr. Owen:

Q. Out loud.

A. "Section 16. Rolling stock operated in State—Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed for State purposes only, at a rate not to exceed 40 mills on the dollar assessed value."

Q. Will you look at it very carefully and see if you can explain it by phrases, if you have to?

What do you think that provision means?

Mr. Dalton: If your Honor please, could I restrict her answer to what she told Mrs. Culpepper, not what she may [fol. 301] now understand it to mean?

By Mr. Owen:

Q. Do you recall what you told Mrs. Culpepper?

A. I am afraid my memory might not justify in saying just exactly what I told Mrs. Culpepper.

The Court: The sense of what you told her is what we want, not the exact words.

The Witness: I am afraid I might not be able to give it to you just as I gave it to her. However, I feel I can give the interpretation of it, now.

By Mr. Owen:

Q. Reading the provision now, does that recall to mind what you may have told her?

A. I does, possibly.

Mr. Dalton: I thought she said she didn't recall.

The Court: She said she wasn't sure. That is what it amounted to.

Mr. Dalton: The point I am making, we can't determine whether or not Mrs. Culpepper was correct in rejecting her interpretation if we can't obtain her answer she gave [fol. 302] at the time to Mrs. Culpepper.

The Court: In the first place, do you know what the term "rolling stock" means?

The Witness: Yes, I think I do.

The Court: What does it mean?

The Witness: I think it has to do with locomotives, freights, and passenger cars and the like.

By Mr. Owen:

Q. What does this provision say about rolling stock?

A. My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed 40 mills on the dollar.

Q. Do you have any recollection as to what Mrs. Culpepper said to you after you attempted to interpret this provision?

A. She just said, "I am sorry. Your interpretation is incorrect." And I said, "Thank you." And went out.

Q. Did she, or did she not, allow you to fill out a registration card when you were there?

A. I did not have an opportunity to fill out a registration card that day.

The Court: Did she know what your education was? Was that explained to her?

[fol. 303] The Witness: Not at that particular time it wasn't Judge.

The Court: Was it explained to her before the conference was over?

The Witness: It was not.

The Court: Did she know you?

The Witness: Well, I have no way of definitely saying she knew me. However, I had been there twice before but I had no way of knowing whether she knew me.

The Court: Did she know what your profession was?

The Witness: I think possibly so, because that was on a previous registration.

Mr. Owen: You may cross-examine.

Cross examination.

By Mr. Dalton:

Q. When was the last time you visited Mrs. Culpepper's office and were asked about the constitutional provision dealing with rolling stock?

A. In 1957. I can't give the month and the date, but it was in 1957.

Q. Mrs. Culpepper handed you the Constitution and indicated that section and asked you to interpret it?

A. She did.

[fol. 304] Q. Have you read that section since then?

A. I have not read that section.

Q. Today is the first time you have read that section since 1957?

A. As I recall.

Q. Have you discussed that section, or this case, with anyone?

A. I have not, Your Honor.

Q. You have not been interviewed by anyone prior to your testimony here today?

A. I have been interviewed.

Q. You have discussed the case with them?

A. I have not discussed the case.

Q. What was the nature of the interview?

Mr. Owen: I wish counsel would make his questions a little clearer. I think the witness is confused about her position under the rule.

The Court: Have you discussed the case with Mr. Owen?

The Witness: Yes, I have.

By Mr. Dalton:

Q. Have you discussed it with anybody else at any time?

A. I have not.

[fol. 305] Q. Have you given any written statements?

A. I have not given any.

Q. Do you recall exactly what you told Mrs. Culpepper when she asked you to interpret that?

A. Well, I stated that previously.

Q. You stated what previously?

A. I told you I could not give you the exact words because I couldn't recall the exact words I gave Mrs. Culpepper, but after reading it this morning, I attempted to give you the interpretation of that particular section.

The Court: Let me ask you this: Do you think, in substance, your explanation this morning is the same as what you said to Mrs. Culpepper?

The Witness: In essence, Judge, I think possibly it was the same.

By Mr. Dalton:

Q. Would you explain to me, and I show you again, Section 16 of Article 10 of the Constitution, and ask you what is the chief purpose of that section?

A. To my knowledge, it would be to tax persons—individuals or companies that were possessors of rolling stock, that were not resident of the State, 40 mills on the dollar and to my understanding, not to exceed that amount.

[fol. 306] Q. In other words, your answer to my question was that the meaning of the section is exactly as it reads; is that your testimony?

A. That is.

Q. Did you so state that to Mrs. Culpepper?

A. Well, I did.

Q. Are you positive that you did?

A. Well, it seems, really, that you are trying to confuse me by the way you are stating it, but in essence I told her just that.

Q. I am not trying to confuse you at all. I am asking you if you are postive you told Mrs. Culpepper?

Mr. Owen: Your Honor, the witness testified three times, already—

The Court: I think you have gone as far as you can go, Mr. Dalton.

Mr. Dalton: That's all.

Cross examination.

By Mr. Morgan:

Q. You are the wife of Robert T. Tobin?
A. Yes, sir, I am his wife.
Q. He testified yesterday, I believe?
A. Yes, sir.
[fol. 307] Q. You only made this one trip since 1956 to attempt to register?
A. That's right.
Q. Are you acquainted with the names of the individual persons who are defendants in this suit?
A. There were a number of teachers from the Southside High School here yesterday.

The Court: He means the names of the people who have been sued by the Government in this case, other than Mrs. Culpepper and other than the Citizens Councils. Do you know the names of the individual defendants?
The Witness: I do not.

By Mr. Morgan:

Q. There had been nothing to prohibit you, had you wanted to, from going back and attempting another registration, has there?
A. Well, there has been because on the citation I was requested to have three registered voters from my precinct, which is precinct 2 in Ward 7, to identify the fact that I could register and there were none of my race. They were all white.
Q. In other words, you didn't go within the ten day period in answer to the challenge?
[fol. 308] A. I did not, for the simple reason that when I received it, the ten days had expired.
Q. Then, you attempted one time in 1957 after letting the challenge go by?
A. I did.
Q. That is the only effort you made to register—one time?
A. Yes, sir.

The Court: Was that because you felt you would not be allowed to register under any conditions?

The Witness: It was not. I felt I should try and maybe I would make it. I was not certain, but I just felt I should try.

The Court: I mean, after the time you went back in 1957?

The Witness: I see what you mean. I am sorry, Judge. Well I couldn't get the persons. They were white.

The Court: No. I mean after having taken the test on the Constitution and been turned down by Mrs. Culpepper, did you or did you not have the feeling that no matter what answer you gave you still would not be registered.

The Witness: Well, it seems that I did—definitely I did, because there was nothing else I could do after my inter-
[fol. 309] pretation of the Constitution was incorrect and I didn't have the number of persons so I could be registered. I didn't attempt it for that reason.

Mr. Morgan: That's all.

Mr. Owen: I have no further questions.

The Court: You are excused.

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Earl E. Smith, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name?

A. Earl E. Smith.

Q. Where do you live, Mr. Smith.

A. I live four miles southeast of Bienville.

Q. What is your occupation?

A. Well, I was working at the planning mill at Danville.

Q. What part of Bienville Parish is that in?

A. It is kind of in the central part of it down toward Jonesboro—Hunt Lumber Company.

Q. Mr. Smith, are you a registered voter in Bienville Parish?

A. Yes, sir.

Q. When did you register to vote?

[fol. 310] A. Sometime last year.

Q. You recall whether it was in the spring or the fall or the winter?

A. No, I don't.

Q. It was sometime last year?

A. Yes, sir.

Q. Where did you attempt to register?

A. Arcadia.

Q. When you attempted to register, what happened when you went into the Registrar's office? What did the Registrar ask you to do?

A. She just asked me for identification and I showed her my driver's license, I believe is what I had.

Q. Are you acquainted with the registrar?

A. No, sir, not to know her. I have seen her a few times. I don't know her.

Mr. Lassiter: May it please the Court, I would like to inquire as to the purpose of this testimony?

The Court: I know what it is and you do too.

Mr. Lassiter: No, I don't. Thelma Tobin was on the stand and she testified as to identical facts as to identification.

The Court: I am going to let it in, I know what it is, and you do, too.

[fol. 311] By Mr. Owen:

Q. Did she, or did she not, ask you to fill out a registration card?

A. Yes, sir.

Q. Did she give that to you?

A. Yes, sir.

Q. Did you attempt to fill out the registration card?

A. Yes, sir.

Q. Did you attempt to fill it out entirely by yourself?

A. Yes, sir.

Q. What did you do with the registration card after it was filled out?

A. The best I remember, I gave it back to her.

Q. What did she do with it?

A. Well she give me one of the papers back after she took it and looked at it, and told me it was okay.

Q. Did she, or did she not, give you anything to read?

A. Yes, sir, I read one paragraph in a book.

Q. You recall what the book was?

A. No, sir, I don't.

The Court: Were you required to interpret it?

The Witness: Yes, sir.

[fol. 312] By Mr. Owen:

Q. You recall what the provision was about?

A. No, sir, I don't remember.

Q. Did you read it aloud?

A. Yes, sir.

Q. You read it aloud?

A. Yes, sir. I read it out to her.

Q. Were you then asked to do anything after you read it aloud to her?

A. She asked me—I forget now—but a few questions. I had to answer a few questions she asked me. I forget just how many it was. She asked me a few questions and I answered them for her.

Q. After you answered these questions, did she say anything? State whether or not she said that was okay, or was she silent?

A. She handed me a registration card and told me it was okay. I had to sign it.

Q. In other words, you had given her your registration card and then she asked you about the constitution and whenever was satisfactory, then she gave you some other card. What did that card contain?

A. Just showing the registration.

Q. Is that correct?

A. That is the best I can remember.

[fol. 313] The Court: I show you the first paragraph of article 14, section 24 of the Louisiana Constitution.

By the way, how far did you go in school?

The Witness: I haven't went to school.

The Court: You have never gone to school in your life?

The Witness: I been to the CCC and the Army.

The Court: Can you read?

The Witness: Very slowly. I will have to take my time on it.

The Court: Read the first paragraph of Section 24 if you will. Read it out loud.

I am not trying to embarrass you. Don't misunderstand me. This has a definite purpose.

Start right here at the word "the." Can you read it?

The Witness: No, sir, I can't.

The Court: Don't be nervous. I am not trying to embarrass you.

Let us skip back over here to another section, Article 1, Section 2.

Can you read that, sir?

The Witness: "A person shall be—"

The Court: Now about "no"?

[fol. 314] The Witness: "No person shall be a party of life, liberty or property, except by due process of law, except as otherwise proven—constitution proven properly shall not be taken or damaged except for public purposes and after just and—"

The Court: You can't read that word?

The Witness: No.

The Court: "Adequate".

The Witness: "... adequate".

The Court: "compensation".

The Witness: "—compensation as paid."

The Court: What does that mean, Mr. Smith? Can you tell us?

The Witness: I wouldn't know just how to explain it, sir.

The Court: Can you explain it at all?

The Witness: The rights shouldn't be took—I don't just exactly know how it should be explained.

The Court: What does it say with reference to taking private property for public use? What has to be done?

The Witness: I don't remember what it says about it.

The Court: Would you like to look at it again?

[fol. 315] I again tell you, sir, I am not trying to embarass you. This has a very definite point and purpose in this case.

The Witness: You mean what can't be done?

The Court: What does the provision with reference to taking the private property for public purposes—what must be done when that occurs? Can you tell from reading that?

The Witness: No, sir.

The Court: How old are you, Mr. Smith?

The Witness: Forty-three.

The Court: Thank you.

Mr. Owen: Your witness.

Cross examination.

By Mr. Dalton:

Q. Mr. Smith, isn't it a fact that the first thing that happened when you walked into Mrs. Culpepper's office was that she handed you a book and asked you to read a part of it and tell her what it meant?

A. Like I say, I don't remember whether that was the first thing, or not. It was either the first thing, or she asked me for identification. I don't know which one was first.

Q. Before you filled out any card, you were asked to read [fol. 316] a book and tell her what it meant; is that correct? Before you wrote anything?

A. I still say, I wouldn't be for sure whether it was the first or second thing.

Q. The whole event is pretty dim in your mind?

A. That's right.

Q. You don't recall what section of the book she asked you to read?

A. It has been too long for me to remember.

Q. You don't recall what the section was about, do you? What is your answer, sir?

A. No, sir, I just don't remember.

Q. And you don't remember either what you told her, or said to Mrs. Culpepper, do you, Mr. Smith?

A. No, I wouldn't be for sure what it was.

Mr. Dalton: That's all I have.

The Court: You have shown you can read a little bit. Can you write?

The Witness: About like my reading, sir.

The Court: Did you get any help from Mrs. Culpepper in filling out your registration application?

The Witness: No, sir, she did not help me.

The Court: What about calculating your age to the exact [fol. 317] number of years, months and days? Were you able to do that by yourself?

The Witness: Oh, yes, sir.

The Court: What was your birthday?

The Witness: Born 1917, July 29th.

The Court: Suppose you figure out for us right now, as of today—this is November 18—exactly how many years, months and days old you are right now.

Suppose you take this pencil and paper and figure out the exact number of years, months and days old that you are right now?

The Witness: I got it, 43 years, 4 months and 19 days.

The Court: The correct answer is 43 years, 3 months and 20 days.

The Witness: Today is the 18th?

The Court: 18th of November, yes, sir. It won't be four months until the 29th of November.

That is enough, Mr. Smith. Thank you.

This is a good point to take a fifteen minute recess.

(Short recess.)

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[fol. 318] T. J. Lafield, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Owen:

Q. State your name.
A. T. J. Lafield.
Q. How old are you, Mr. Lafield?
A. I will be 48 on May 16.
Q. Where do you live?
A. Ringgold.
Q. What is your occupation?

A. Farm. Raise cows and farm.

Q. Are you presently a registered voter in Bienville Parish?

A. Well, I registered this last time.

Q. Do you recall when you registered?

A. I have voted in Red River Parish a pretty good while back, but that is the first time I voted in Bienville.

Q. You recall when it was?

A. Yes, it has been—I was about 22 years old.

Q. I mean, the most recent time you registered?

A. Last year.

Q. You recall the month, the day?

[fol. 319] A. No, sir, I don't remember just what day.

Q. But you believe it was 1959?

A. Yes, sir.

Q. Where did you register?

A. Arcadia.

Q. State in your own words what happened when you went to the Registrar's office in Arcadia?

A. Well, when I first went there, I didn't have no education and the one that registered me told me to go back and get two witnesses from my own home town in Ward 4, and I had to go back and get two witnesses that knew me in Ward 4, and when I come back I had the witnesses with me and I registered to vote.

The Court: You said you had no education. Did you go to school at all?

The Witness: No, sir. I passed out of the first grade. That's all I had.

By Mr. Owen:

Q. She told you you needed what?

A. Two witnesses to identify me.

Q. What happened then?

A. Well, I went and got my witness and I registered.

Q. Who were your witnesses?

[fol. 320] A. Well, one of them was B. D. Lafield and the other was Joe Woodward.

Q. Where does Mr. Lafield and Mr. Woodward live?

A. They live in Ringgold, and Mr. Woodward does, too.

The Court: Is V. D. S. Inafield your brother?

The witness: That is my wife, and the other one was my nephew.

By Mr. Owen:

Q. Did you know Mrs. Culpepper?

A. Well, I had been knowing her all along—just a short while.

Q. Do you drive a car?

A. Yes, sir.

Q. Did you have a driver's license with you when you went in?

A. Yes, sir.

Q. Did she ask you for the driver's license?

A. Well, I don't just remember. I think she did. I just don't remember, but I think she did.

Q. Did you show it to her?

A. Yes, sir.

Q. After you showed it to her she asked you to get two witnesses?

[fol. 321] A. Yes, sir, I had to go get two witnesses.

Q. Did you come back on the same day with Mr. Woodward?

A. No, sir. It was a day or two later that I come back.

Q. Now, what happened when you came back?

A. Well, I carried my witnesses in there and I registered.

Q. How did you register?

A. Well, I just signed the registration card.

Q. You just signed it?

A. Yes, sir.

Q. Did you fill it out?

A. No, sir. I just signed it.

Q. Can you read and write?

A. No, sir.

The Court: Who filled it out?

The Witness: Mrs. Culpepper.

Mr. Owen: Your Honor, the record will show that at the time there was a provision for illiterates.

By Mr. Owen:

Q. Is that all that you did, is just sign the card when you were in Mrs. Culpepper's office?

[fol. 322] A. Yes, sir, I think that's all.

Q. Did she ask you any questions?

A. She asked me a few questions, but I don't remember just what it was.

Q. About the card?

A. I just don't remember.

Q. In other words, is this, or this not, correct: You went in with two witnesses and what did these witnesses do?

A. They signed they been knowing me in my ward. They been knowing me for a long time.

Q. And after they signed, Mrs. Culpepper filled out your card; is that correct?

A. Yes, sir.

Q. And after she filled out your card, you signed the card; is that correct?

A. Yes, sir.

Q. And after that, that's all that happened; is that correct?

A. Yes, sir.

Q. Are you certain nothing else happened?

A. She read a little law book to me, or something like that, you know.

Q. Is that all she did?

A. Yes, sir.

[fol. 323] Q. Nothing else?

A. No, sir.

Q. And you left after that time?

A. That's right.

Mr. Owen: Your witness.

Cross examination.

By Mr. Dalton:

Q. Mr. Lafield, do you distinctly remember going in Mrs. Culpepper's office?

A. Do I remember going in?

Q. Yes.

A. Yes, sir, I remember.

Q. Don't you remember Mrs. Culpepper reading you something out of a book and asking you to interpret it?

A. That's what I said. She read me something, but I didn't remember just what it was, now.

Q. Did she ask you what it meant?

A. Yes, sir, she ask me what it meant.

Q. I show you an affidavit signed by you that says you are unable to read or write the English language and ask you if that signature there is your signature?

A. It is.

Q. These people that signed this affidavit saying that [fol. 324] they know the facts stated by you to be true, V. D. S. Lafield and Joe D. Woodward, they were with you in Mrs. Culpepper's office?

A. They was with me.

Q. Is V. D. S. Lafield any kin to you?

A. That is my wife.

Q. Did she know Mrs. Culpepper?

A. No, sir.

Q. Did Mr. Woodward know Mrs. Culpepper?

A. Just knew of her is all.

Q. Did you know her?

A. No, sir.

Q. Did she know you?

A. I don't know. I just knew of her. I don't know whether she knew me, or not.

Q. But this affidavit was executed in Mrs. Culpepper's office?

A. Yes, sir.

Q. And following the signing of this document, she then assisted you in filling out your registration card and filled it out for you?

A. After they signed.

Mr. Owen: Your Honor, I have stated the gentleman's card says that this is an application form for registration [fol. 325] for citizen who cannot read or write. I don't understand what this line of questioning is about.

The Court: Actually, he developed points that you didn't develop which are in your favor, that is, the Registrar didn't

know either of these two people who identified him. Let him go. Maybe, he will help you.

Mr. Dalton: The Registrar will testify she did.

By Mr. Dalton:

Q. Do you know of your own knowwledge whether the Registrar knew your wife or Mr. Joe Woodward?

A. I don't know whether she knew them or not. I don't think she did.

Mr. Dalton: That's all.

Cross examination.

By Mr. Morgan:

Q. Mr. Lafield, were you interviewed by the F.B.I. recently?

A. Yes, sir.

Q. About two weeks ago?

A. About two weeks ago.

Q. Did they ask you about your education?

[fol. 326] A. They did.

Mr. Morgan: That's all.

Mr. Owen: Your Honor, with respect to further witnesses, I will be happy to stipulate the F.B.I. contacted them all.

The Court: Are you willing to accept that stipulation and save the question?

Mr, Morgan: Your Honor, I think we ought to get in the record a statement of how many people registered since January 1, 1957, and out of that list that have registered, that these people that are now testifying were interviewed by the F.B.I. and have been selected as witnesses.

The Court: You can put that on as part of your case.

By Mr. Dalton:

Q. Your wife is a registered voter in Bienville Parish, is she not?

A. She is.

Q. And also Joe A. Woodward is a registered voter in Bienville Parish?

A. He is.

Q. And was at the time they signed this affidavit?

[fol. 327] A. Well, my wife was, I know. I really don't know whether Mr. Woodward was, or not.

Mr. Owen: Your Honor, I would like to introduce this document in evidence as "G-14".

Let the record show it is a document which related only to the man's ability to read and write.

The Court: Mr. Morgan, I understand you represent the individual defendants only?

Mr. Morgan: Yes, sir.

The Court: Not the Registrar?

Mr. Morgan: That is correct, sir.

The Court: All of this information that you are talking about has nothing to do with your clients.

Mr. Morgan: Maybe I'd better keep quite.

The Court: Are you through with this witness?

Mr. Owen: Yes, sir.

The Court: You are excused.

* * * * * * *

[fol. 328] Pauline A. Culpepper, called as a witness by counsel for defendant Culpepper, having been previously duly sworn, testified further as follows:

Direct examination.

By Mr. Dalton:

Q. Mrs. Culpepper, you stated that you changed your acceptance of the word "negro" after the blank on the card opposite "color" and that you now accept "black" and "brown"?

A. Yes, sir.

Q. I ask you, was this subsequent to your instruction by the Police Jury to strictly comply with the registration laws of the State of Louisiana?

A. It was after that.

Q. Your acceptance now of only "black" or "brown"; is your purpose in doing that do discriminate against members of the colored race?

A. No, sir.

Q. In your opinion, is "negro", a correct answer to the question "color"?

A. Well, I have accepted "negro" back in the past, but since 1955, I have tried to accept the color, which the card reads, "My color is".

Q. You do not now consider it correct?

A. No, sir.

[fol. 329] The Court: Mrs. Culpepper, again getting back to the discussion you and I had awhile ago on that subject: would you agree or disagree with the Court that the word "negro" is more truly descriptive of all members of the negro race than to try to give any color?

The Witness: No, sir, I wouldn't.

The Court: You would disagree with that?

The Witness: I don't quite understand.

The Court: Because of the fact that the color of negroes varies from dark, black and all the way up to white, would you not think that the word "negro" would be more truly descriptive than to use some shade of color?

The Witness: That is what I accepted, and the reason I wouldn't accept it now is because I wouldn't want that person to be challenged again because he filled in "My color is negro".

The Court: Did you have to accept those challenges where that was the only ground? Was there anything in the State law which said they had to answer "black" or "brown"?

The Witness: That is the way I understand the State law. I don't have any choice when two people come in and challenge someone's registration. I am compelled within forty-eight hours to send that out.

[fol. 330] The Court: All right. Proceed.

By Mr. Dalton:

Q. Have you refused any white applicants for registration, Mrs. Culpepper, since January 1, 1957?

A. Yes, I have.
Q. Could you tell us how many?
A. Oh, I would say between forty and fifty.

The Court: Suppose the white applicant would write, in answer to the question, "my color is", the word "Caucasian"?
The Witness: I would not accept it.
The Court: The color of white people's skin varies, doesn't it?
The Witness: Yes, sir.
The Court: Some of them are darker than some negroes?
The Witness: That's right.
The Court: And some of them have pink skin, and some of them have olive skin, and some of them have white skin, don't they?
The Witness: Yes, sir.

[fol. 331] By Mr. Dalton:

Q. Mrs. Culpepper, you observed the white citizens that the Government produced here in Court today to testify, did you not?
A. Yes, sir.
Q. You recall the Judge's request to you as to the possibility of their being a logical explanation of how that type person could be registered and highly educated negroes with college degrees, and Master's degrees, could not?
A. Yes, sir.
Q. Since you were on the scene and actually observed these negroes to attempt to register, is there a logical explanation for the fact that they were not registered?
A. As I stated to Mr. Owen, the majority of them that has come in since January 1, 1957, they have come in apparently with the idea they weren't going to get to register anyway, and some of them just refused to read a section in the Constitution as if "I don't have to do that".
Q. You presented the Constitution to them and asked them to interpret it?
A. Yes, sir. and some of them pushed it back, and I had one awhile back and he said, he is a preacher and he

preaches in several different churches—I have forgotten the names of the churches. He said he preached and if I [fol. 332] asked him if he read and understood the Bible, he said he would be able to do it.

I said, "If you can preach and teach the Bible, it looks to me like you could reach a little section of the Constitution". He stood there and looked at the book and he said, "That is not fair." And I said, "I don't see why you don't call it fair."

Q. Did these highly educated negroes display a spirit of cooperation in trying to register?

A. No, sir.

Q. What did they do?

A. They came in with an air as if I was against them, and I am not against a person in the world—not one. I try to be very considerate with everyone in the office.

Q. Consider the testimony of Arthur Salter and his attempt to register at Friendship and his registration at Friendship.

Did you know Arthur Salter?

A. I didn't know Arthur Salter in Arcadia, and I told him he would have to have two witnesses from his precinct. So, I didn't see Arthur any more until I visited the precincts in the fall of last year, and he came there and he had told me who he was, and Mr. Jess Harvey was out there, a school board member, and I asked him who the fellow was, and he told me, and when I went back over [fol. 333] there later on in the afternoon, Arthur came to register and I asked him for his driver's license, and he had it, and I accepted it.

I asked him to read. I don't remember whether he stated this morning I asked him to read a section of the Constitution, but I can hold my hand up and swear I have not registered a person in my office, and Judge, Your Honor, I am telling the truth. If I have ever told the truth in my life, I am telling it now. There has not been a person who registered in my office since November, 1955, that has not shown the identification and has not read some section in the Constitution.

I can lay down at night and go to sleep and I am not bothered about that. I certainly am not.

Q. Did you administer to Arthur Salter the complete test presently prescribed by law?

A. I certainly did.

Q. Did you give him an easier test than a colored registrant?

A. I have not.

Q. Have you ever at any time given a white registrant an easier test on procedure than that which you administered to colored applicants for registration?

A. No, sir, I have not, and don't intend to as long as I am the Registrar of Voters, because they are human beings as I am.

[fol. 334] Q. Consider the testimony of S. R. Bruce. Were you personally acquainted with Mr. Bruce?

A. Yes, sir, I have visited in the home with Mrs. Bruce.

Q. Was there any doubt he was not the person he was supposed to have been?

A. No, sir. I asked him for the driver's license.

Q. Did you ask him to interpret the Constitution?

A. Yes, sir.

Q. Did you give him an easier test than you did to a colored applicant?

A. No, sir.

Q. Considering the testimony of Owen Black. Were you personally acquainted with Owen Black?

A. No, sir, I was not personally acquainted with Owen Black, but I had seen Mr. Black on the streets in Arcadia, and I asked a friend of mine who lives in the Parish. We were talking, and I noticed him, and I knew I hadn't seen him in the Parish before and I asked who he was and she told me who he was, and his hair is long and gray and he is kind of unusual looking, and I asked who he was and when he came in to register, I asked him for his driver's license.

Q. Did you administer the Constitutional test to him?

A. I certainly did, and Mr. Black went through it with flying colors.

[fol. 335] Q. Do you have a formula for computing the age in years, months and days that might be a little different from the formula the Judge used this morning?

A. I don't know what the Judge used. I used the 30 days but some of my cards, they used the 31 day month.

Q. You accept both?

A. I have.

Q. Considering the testimony of T. J. Lafield, whose card you filled out. Do you have an independent recollection of his visit to your office?

A. Yes, sir, I certainly do.

Q. Did you personally know he, or the two witnesses he had with him?

A. I had seen Mr. Lafield in the Clerk's office several times through the years and I knew his face, and I knew he lived in Ward 4, and he came in to register one day while at the courthouse, and he told me he was unable to read and write, and I told him the procedure he would have to go through, and if he thought he was able to interpret the section of the Constitution with me reading it, to come back with two witnesses to sign an affidavit for him that he was unable to read and write.

Q. Were both witnesses who signed the illiteracy affidavit registered voters in the Parish?

A. Yes, sir, his wife and Mr. Woodward, came back with [fol. 336] him.

Q. Did you administer the Constitutional test to him?

A. Yes, sir, I sure did.

Q. Did you treat him any differently than you would a colored applicant?

A. No, sir.

Mr. Owen: Your Honor, let me enter this objection: counsel is leading the witness.

The Court: Don't lead her, Mr. Dalton.

By Mr. Dalton:

Q. Considering the testimony of James L. Deweese, who referred to a two-line constitutional test; I will ask you if you have ever given a two line Constitutional test during your tenure as Registrar?

A. I don't recall a two line test in the Constitution.

Q. Considering the testimony of Gloria Pyle, who at the time of the registration was listed as Gloria Martin, do you recall her visit to the office?

A. Yes, sir.

Q. Were you acquainted with her father?

A. I was acquainted with her father.

Q. Did you ask her to produce any identification?

A. I asked her for the driver's license.

[fol. 337] Q. Did you give her the complete registration test?

A. I certainly did.

Q. Let me finish my question.

A. Excuse me.

Q. Did you give her an easier test than you did a colored applicant?

A. No, sir.

Q. Considering Earl E. Smith, the Government's first white witness, do you have an independent recollection of his registration procedure?

A. I very well remember Mr. Smith.

Q. What was unusual about it, if anything?

A. Well, Mr. Smith came in and I asked him for his identification and he was awfully upset. I could tell he was very nervous, and I sat him down at the table in one side of my office and I carried the registration card over there and sat him down where he would be by himself, and I do not stand over their shoulder to bother them, because that is one reason the Police Jury asked me to take one person at a time so they would have a fair chance.

Q. Was he as nervous as he was here today?

A. Yes, sir.

Q. How long did you say it took him?

A. Forty-five minutes.

Q. Did you have him read a portion of the Constitution?

[fol. 338] A. Yes, sir, I sure did.

Q. Did you ask him to interpret it?

A. Yes, sir.

Mr. Owen: Your Honor, counsel is still leading.

The Court: You are still leading.

Mr. Dalton: She answered "yes" or "no". A leading question suggests the answer.

The Court: You are suggesting answers to her.

By Mr. Dalton:

Q. What did you do with Mr. Smith?

A. I asked him to read a section of the Constitution, which he did, and interpret it.

Q. Did he do so to your satisfaction?

A. Yes, sir.

Q. What was the condition of your office that day?

A. What do you mean?

Q. In respect to traffic?

A. There was no one coming in.

Q. You were not busy?

A. No, sir.

Q. Did Mr. Smith correctly figure his age on the card?

[fol. 339] A. I don't recall.

Mr. Owen: If Your Honor please—

The Court: I don't know how to tell you not to lead any plainer, Mr. Dalton.

By Mr. Dalton:

Q. Consider the testimony of Thelma Tobin. Was the Constitutional test of rolling stock—do you have an independent recollection of the constitutional test administered to Thelma Tobin concerning rolling stock?

A. Yes, sir, I do.

Q. Did you accept her answer?

A. No, sir.

Q. Why not?

A. Because she didn't say it was for non-resident owners.

Q. Did you administer to Thelma Tobin a more difficult test than you did white registrants?

A. I don't think so.

Mr. Owen: Object, Your Honor. He is stil leading the witness.

The Court: Mr. Dalton, put it in the alternative, where she can answer one way or the other.

[fol. 340] By Mr. Dalton:

Q. Will you state whether or not you administered to Thelma Tobin a more difficult test than you required of white applicants?

A. No.

Q. Consider Robert T. Tobin, the Stanford graduate. Do you have any independent recollection of his visit to your office?

A. I remember Robin coming in the office back in 1957. That is the only time I remember him being in my office.

Q. Do you recall any incident as to what occurred when he did visit?

A. I think I asked him to have someone identify him, because I didn't know him. He didn't tell me he was registered before. Had he, I would have gone to his card and that would have been proof enough.

Q. Consider Birdie Coleman and Truxilla Cleveland, as to their attempt to register in Ringgold at the fire station. Do you have an independent recollection of their attempt to register?

A. Yes, sir.

Q. Will you state what occurred?

A. I was down at Ringgold. I worked down there two days in September, 1959, I believe it was. I think, maybe, they stated it was October, but it was September, 1959. I [fol. 341] was working the precincts at the request of the Police Jury and these women came in. I was working in the back office, they call it, at the fire house. It was in the mayor's office, and they were out in the council meeting room, and stood in there and outside for—I don't know how long—and I just did not understand why they were doing that. That is the reason I asked them to get their witnesses to bring in because I knew it wouldn't be any trouble for them to get them.

Q. Have you ever seen either of the two women before?

A. I didn't recall, or I wouldn't have asked them to have somebody identify them.

Q. Referring now to 1956.

These people who visited your office and went through your files after office hours, did they ever identify themselves to you as members of any organization?

A. No, sir.

Q. Did you know of your own personal knowledge whether they represented any certain organization?

A. No, sir, I did not.

Q. Why did you instruct them to conduct such an examination—

Mr. Owen: Objection.

Mr. Dalton: On what ground?

[fol. 342] Mr. Owen: On the ground you are leading the witness.

The Court: That assumes something which has not been shown.

By Mr. Dalton:

Q. Why did they conduct their examination after your regular office hours?

A. Because I asked them to.

Q. Why did you do that?

A. Because I was busy in the office during office hours.

Q. What was your understanding of the law?

A. That is my understanding of the law, if you are busy and it would interfere with my work, anyone can come after office hours to inspect the registration rolls.

Q. What I am getting at, what is your understanding of the law as to your duties when a challenge is presented to you?

A. I have forty-eight hours to send it out. I prepare a citation to attach to it—a citation to erase. I believe is the heading of the affidavit.

Q. Did you understand you had any discretion in the matter?

A. I don't think I have any.

Q. Were you operating your office that way when you [fol. 343] received a challenge?

A. Yes, sir.

Q. Did you have any discretion as to whether to accept it, or not?

A. No, sir.

The Court: Let me ask you this question, Mrs. Culpepper: You opened your office after hours for these mem-

bers of the Citizens Council to canvass your rolls and make all these challenges. That is correct, is it not?

The Witness: Yes, sir.

The Court: Would you do the same if your office was crowded during the day for any voter applicant to let him register to vote after hours?

The Witness: Yes, sir.

The Court: Have you ever done that?

The Witness: Yes, sir. I have stayed out in the precints every year. I stayed many times after dark and drove home at night by myself and I don't think I had a registrant that can say I haven't stayed and registered him. In fact, I stayed last year in September at the mill below Castor until 7 o'clock.

By Mr. Dalton:

Q. Have you ever required any white applicants for reg- [fol. 344] istration to produce two witnesses to identify themselves?

A. I sure have.

Q. I show you seventeen documents signed by one Pauline A. Culpepper and some signed by Pauline A. Sims and ask you what they represent?

A. They are proof of identify.

The Court: What period of time does this cover?

The Witness: 1955 up to now.

The Court: In other words, there have been seventeen of them since 1955. Is that all?

The Witness: I don't recall whether I have any more in the office, or not. I just picked up those and brought them.

The Court: If you had more, would you have brought them?

The Witness: I don't know, Judge. I just picked those up and brought them along. I didn't know whether you could use them, or not, or whether they would be proof of anything.

By Mr. Dalton:

Q. State whether or not those proof of identify are for [fol. 345] white or colored voters?

A. Those are all white.

Mr. Dalton: In connection with the witness' testimony, Your Honor, I would like to offer, produce and file in evidence seventeen proof of identify of white voters in Bienville Parish.

The Court: Give us the earliest date and the latest date, please.

Mr. Dalton: Beginning on the 5th of October, 1955, and the last one being dated the 26th day of July, 1960, and ask they be marked in toto as "Culpepper 1".

The Court: What is the objection?

Mr. Owen: My objection is as to the pre-1957. We have not alleged, nor have we introduced evidence with respect to her practice prior to that time.

The Court: I think your objection goes to the weight and not the admissibility.

Mr. Owen: I merely would like the record to reflect ten of these—the dates on ten of these are dates subsequent to the filing of this suit.

The Court: Let the record show that.

Let them be admitted in evidence.

(Whereupon the above described documents were marked [fol. 346] "Culpepper 1" and filed in evidence with the Clerk.)

By Mr. Dalton:

Q. State what procedures you followed, Mrs. Culpepper, when these people wanted to examine the records and appeared at your office?

A. You mean when they came in that night?

Q. Yes.

A. There was several of them came in the office. My office was small and I had a small counter not any longer than that desk, and they stood around the counter and I read the affidavit of challenge over to them and I told them whenever they signed that they were swearing to it. That is what I used in swearing them in. Whenever they signed

them, they signed them before me after they would make up the affidavits before me.

Q. How many nights did they visit your office?

A. Three nights.

Q. Was the same procedure followed each night?

A. I don't recall about that.

Q. State whether or not you have an independent recollection of an interview with F.B.I. Agent Augustine?

A. Yes, sir. Mr. Augustine came to my office three times.

Q. Do you recall what you told him the first time?

A. I don't recall everything I told him. I didn't have [fol. 347] much to tell him. I told him just about what I have told you here today.

Mr. Dalton: That's all, Your Honor.

Cross examination.

By Mr. Owen;

Q. Mrs. Culpepper, you stated that the Police Jury asked you to comply with the registration laws sometime in November, 1955.

Did they tell you to refuse to accept applications which had as an answer for the blank "my color is" the word "negro"?

A. No.

Q. They did not tell you that?

A. No, sir.

Q. You state forty or fifty applicants have been rejected by you.

What period does that cover?

A. I would say since we have been in permanent registration.

Q. Do you have any records dealing with these applicants?

A. No, sir, I didn't know I would ever need a record, Mr. Owen.

[fol. 348] Q. What was the reason for rejection of some of these applicants?

A. The majority of them was they couldn't prove their identity, or they couldn't interpret the Constitution. I be-

lieve most of them couldn't interpret the Constitution.

Q. Were some of these rejections fairly recent?

A. When I was registering people for the November election.

The Court: November, 1960?

The Witness: Yes, sir.

By Mr. Owen:

Q. You recall any errors which these white applicants made in interpreting the Constitution?

A. No, sir.

Q. With respect to Mr. Salter, about whom you testified, will you state precisely how you came to know that Mr. Salter was, in fact, Mr. Salter?

A. Well, when he came to my office, he told me who he was and then I told him he would have to have his two witnesses and when I worked the precinct I talked to two citizens that lived right there next to the building where I was working and asked them about Mr. Salter.

Q. Have you ever asked anybody about the identify of [fol. 349] any colored applicants who made application in your office?

A. Yes, after they leave out of the office, if I don't know them and if some one is standing in the hall, I try to find out who they are.

Q. With respect to Mr. Black, who did you ask about Mr. Black—his identify?

A. It was Mr. Smitherman in Ward 6 and his wife.

Q. You stated you have an independent recollection of the mistake that Thelma Tobin made in interpreting a provision in the Constitution.

You recall, Mrs. Culpepper, when Mrs. Tobin attempted to register?

A. No, I don't.

Q. Would it refresh your recollection if I suggested Mrs. Tobin testified she attempted to register sometime in 1957?

A. No, I don't recall that.

Q. But, you have an independent recollection of the error which she made in interpreting the Constitution?

A. Yes, I do, because I wondered why Thelma would make an error like that.

Q. And yet, you state that you have no independent recollection of the particular reasons why a white applicant who had been rejected recently was rejected?

A. I just rejected them because they didn't interpret the [fol. 350] section I gave them to my satisfaction.

Q. But you don't remember what mistake they made; is that correct?

A. No, I don't.

Q. In Ringgold, these ladies that you said that came to attempt to register, did you ask anybody about who they were?

A. No, because I was busy. After I wasn't busy, I went up and talked to some of the men in the office after they had come and gone.

Q. Did you ask any of these ladies who were attempting to register in Ringgold, if they had a driver's license?

A. No, I didn't.

Q. Why didn't you ask them if they had a driver's license?

A. I explained that once before. I was suspicious of them because I didn't know what they meant standing around like they did.

Q. Let me ask you this:—

The Court: A driver's license requires a person's signature, does it not?

The Witness: Yes, sir.

The Court: Couldn't you have asked them to sign their name and compare it with the signature on the driver's [fol. 351] license to see whether or not it would identify them?

The Witness: I have never used that procedure.

The Court: Wouldn't that be as good as most procedures?

The Witness: I was suspicious of them, as I told you and I knew it wouldn't be hard for them to get residents of Ringgold.

The Court: When they got two white men to identify

them, you rejected them because they were from a different precinct?

The Witness: They were from a different precinct. That is the State law, Judge.

By Mr. Owen:

Q. Do you know John C. Howard?

A. I don't recall.

Q. Do you konw James E. Walsworth?

A. Yes.

Q. Do you know where he lives?

A. Yes, sir.

Q. Where does he live?

A. If it is the Walsworth I am thinking about, he lives in Ward 7, Precinct 2, I believe.

[fol. 352] Q. Do you have an independent recollection of his attempt to register?

A. I believe Mr. Walsworth—he is either illiterate or a physical disability.

Q. Do you have an independent recollection as to the time he attempted to register?

A. No, sir, not too much. I don't remember the year or month he registered.

Q. Do you know a Sally P. Blake?

A. Yes, sir.

Q. Do you have an independent recollection as to the time she attempted to register?

A. I believe Sally registered the day I was in Ringgold: Sally lives in my home town of Gibsland, Louisiana.

Q. Do you know Alice W. Rushing?

A. I don't recall.

Q. Do you have an independent recollection of the attempt of Alice W. Rushing to register to vote?

A. I don't believe.

Q. Do you know Mary C. Salter?

A. No.

Q. Do you have an independent recollection of Mary C. Salter's attempt to register to vote?

A. No.

Q. Do you know Gloria Salter?

[fol. 353] A. No.

Q. Mrs. Culpepper, do you really have an independent recollection of the circumstances surrounding the attempts by the witnesses who testified, both white and colored—the events which surrounded their attempts to register in your office?

A. I do not.

Q. You do not have an independent recollection?

A. Not all of them. I do of some, if something happened that stood out that impressed me and it stayed with me. Otherwise, I don't have.

Q. You do not have an independent recollection of all the persons who testified here in Court as to what transpired in your office; is that correct?

A. I would say the majority of them that testified here today, that I do.

Q. Will you tell me why you have an independent recollection of the attempt of Mr. James Deweese to register? What struck in your mind with respect to him?

A. I don't recall right now.

Mr. Owen: I have no further questions.

[fol. 354] Re-direct examination.

By Mr. Dalton:

Q. State how many persons you have registered since January 1 of 1957 in Bienville Parish?

A. I don't have any idea. I would say something around three hundred.

The Court: About a hundred a year?

The Witness: Yes, sir.

The Court: About two a week?

The Witness: Yes, sir. Some weeks I go for weeks and don't register a person and they all pile in before election and stand out in the hall.

In the building where they added on the jail and added on the Parish offices, they fixed two rooms for the Registrar's office and it was for the convenience of the people

so they won't have to stand up in the halls, and they have a nice chair and table to sit down by and I let them take their own time.

Mr. Dalton: That's all.

Mr. Morgan: I have no questions, Your Honor.

Mr. Owen: That's all, Mrs. Culpepper.

The Court: You may step down.

Mr. Dalton: The defendant, Mrs. Culpepper, rests.

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[fol. 355]

PLAINTIFF'S EXHIBIT No. 20B

Civil Action No. 8695

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UNITED STATES OF AMERICA, Plaintiff,

v.

ESTELLE WILDER, ET AL., Defendant.

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EXCERPTS OF PROCEEDINGS

[fol. 356-8] DAISY LEE KNOX, Colored Female, called as a witness on behalf of the Government being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Please state your name and address?

A. Daisy Lee Knox, Jonesboro, Louisiana, General Delivery.

Q. How long have you lived in Jackson?

A. Since 1944.

Q. Are you a registered voter in Jackson Parish?

A. No, I am not.

Q. Have you ever been a registered voter in Jackson Parish?

A. No.

Q. Have you ever applied for registration?

A. I have.

Q. What sort of work do you do Miss Knox?

A. I teach school.
Q. In Jackson Parish?
A. Right.

The Court: Do you have a degree?
The Witness: Yes, sir.
[fol. 359] The Court: From where?
The Witness: Grambling College.
The Court: BA?
The Witness: BS.
The Court: What subject do you teach?
The Witness: General business and typing.

By Mr. Dunbaugh:

Q. Do you recall about when it was that you attempted to register to vote in Jackson Parish?
A. I don't remember the exact date, but it was somewhere around about Christmas last year—after Christmas or just before Christmas. I don't know.
Q. Where did you go to register?
A. I went up to the Court House building to the officer of the Register.
Q. When you got there, what happened?
A. I went along with Miss Cochran. She is a teacher there. I don't recall if she asked could she help or not. Anyway, she told us one would have to go back outside and I went outside and waited until Miss Cochran finished.
Q. I take it you eventually did get inside?
A. Yes.
Q. What happened when you got inside?
[fol. 360] A. I believe the first time she asked if I was a teacher, too, so I presume by that Miss Cochran told her she was a teacher also and she had me to read the Preamble.
Q. The Preamble of what?
A. Of the United States—part of the Constitution.
Q. She had you read it out loud?
A. Yes.
Q. And then what happened?
A. She read it back to me and had me to write part of it. I don't think I wrote all of it, but some of it I did.
Q. What happened after that?

A. After that she read another part of the Constitution which had to do with the President of the Senate, I believe, and asked me to interpret it.

Q. Did you do so?

A. I said what I thought was right.

Q. Did the Registrar read it to you or did she have you read it?

A. She read it to me.

Q. Did she ever let you look at the book?

A. No.

Q. Did you ask her if you could?

A. Yes.

[fol. 361] Q. What did she say?

A. She said she would have to read it to me.

Q. What happened after you told her what you thought of it?

A. She said, "That is the shortest part of the Constitution. If you can't interpret that we can't help you."

Q. I am going to show you what has been marked as Government's Exhibit 12 and ask you if you can identify it?

A. Yes, sir, this is what I wrote. She read part of it back to me.

Q. There is some writing on the front. Did you write that?

A. No.

Mr. Dunbaugh: I offer Government's Exhibit 12 in evidence.

The Court: Let it be filed.

(Whereupon the above described document was filed in evidence with the Clerk.)

By Mr. Dunbaugh:

Q. Miss Knox, Government's Exhibit 12 which you just looked at is blank except for your writing on the back and somebody else's writing across the front; is that true?

[fol. 362] A. Yes, sir.

Q. Didn't you get to fill out a form?

A. No, sir.

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Have you been back to the registration office at the Court House since December, 1961?

A. No, sir.

Q. Had you ever attempted to register prior to that time?

A. No, sir.

Mr. Kron: That's all.

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[fol. 363] JOAN DUNN, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Will you please state your name and address?

A. Joan Dunn, Jonesboro, Louisiana, General Delivery.

Q. Are you a registered voter in Jackson Parish?

A. No, I am not.

Q. Have you ever applied for registration?

A. Yes.

Q. Do you recall about when that was?

A. I think it was along when the public library was having to vote for it.

Q. Do you have any idea about when that was?

A. No, I think it was in 1961. I am not sure.

Q. When you went to register, where did you go?

A. I went inside the Court House. It is on the main floor and it is to the left of the building right on the other side of the fountain.

Q. When you got there, what did you have to do?

A. There was three of us and all of us went in and I [fol. 364] said I wanted to register and she said, "One at a time."

So, two of us had to go out and let one in at a time.

Q. Did you get to go in eventually?

A. I went in second.

Q. What happened after you got in?

A. I told her I wanted to register and she opened the book and said, "Read this." And I read it.

Q. When she said, "read this", did she indicate something?

A. Yes, it was part of the Constitution. I don't know whether it was an amendment or the article, but it was some part of the constitution.

Q. What did you do then?

A. I read through hurriedly and then she said, "Interpret it."

Q. After you read through it, what happened after that?

A. Well, I wanted to read it again because I didn't get an understanding, but she didn't let me.

Q. Why didn't you read it back again?

A. I asked her to let me read it again and she told me I couldn't read it again.

Q. Did she take the book away?

A. Yes, she closed it.

[fol. 365] Q. While you were reading it, Mrs. Dunn, did you know that you were going to have to explain it?

A. No, because she didn't say "interpret it." I would have understand it if I would have known.

Q. Did you interpret it?

A. No, because I went through hurriedly and I don't remember what I read.

Q. How old are you, Mrs. Dunn?

A. I am twenty-three.

Q. How long have you lived in Jackson Parish?

A. I have lived practically all my life except two years.

The Court: How far did you go in school?

The Witness: I finished.

The Court: Finished high school?

The Witness: Freshman in college.

The Court: You are a Freshman in college now?

The Witness: Yes.

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. When was this you attempted to register?

A. I am not sure, but it was along the time we had to [fol. 366] register to vote for going to the public library in Jackson Parish.

The Court: Was that in 1962 or 1961?

The Witness: I don't know. That is what I told him, I don't remember.

By Mr. Kron:

Q. Has it been during the last six months?

A. No, I don't think it has been that long.

Q. You can't remember?

A. No, I don't remember.

Q. Has it been since last Christmas or before last Christmas?

A. If I remember that, I could tell, but I don't remember.

Q. Why is it you remember all the details in the office and you don't remember whether it was before last Christmas or since that you went there?

A. I can't explain it. I am not a psychiatrist.

Q. You got a convenient memory?

A. I can remember what she told me.

Q. You can't remember when?

A. No.

Q. When is your birthday?

A. September 24th.

[fol. 367] Q. You have to be a psychiatrist to remember that?

A. No.

Q. Why is it you remember?

A. Because it is well known.

Q. Is Christmas well known?
A. Yes.
Q. Were you in this office before last Christmas or since then?
A. No.
Q. It wasn't in the last six months?
A. No.

Mr. Kron: That's all.

Redirect examination.

By Mr. Dunbaugh:

Q. Did you get to fill out an application form?
A. No, I didn't.
Q. Who did you go with?
A. Mrs. Nadette Monroe and Miss Josephine Bolton.

The Court: Did either one of them get to register?
The Witness: No, she turned all of us down.
Mr. Dunbaugh: No further questions.

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[fol. 368] Erven Hodge Bryan, White Male called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. Erven Hodge Bryan, Hodge, Louisiana.
Q. How long have you lived in Jackson Parish?
A. Almost twenty years.
Q. Are you a registered voter in Jackson Parish?
A. Yes, sir.
Q. You remember when you applied for registration?
A. 1960, I believe.
Q. I am going to show you what has been marked as Government's Exhibit 2-160. You recognize that?
A. Yes, sir.

Q. What is it?
A. On the date of 9 and 24, resident number Hodge 109.
Q. Is that the application card?
A. Yes, sir.
Q. Is that your application card?
A. Yes, sir.
[fol. 369] Q. And the date on there is 9/24/60?
A. Yes, sir.
Q. Is that the time when you applied?
A. Yes, sir, I guess it is.
Q. When you applied for registration, Mr. Bryan, what did you have to do?
A. Well, I just filled out a blank. That's all.
Q. You didn't do anything else but fill out a blank?
A. Filled out a blank.
Q. Did you have to read the blank back?
A. No, sir, I didn't read it back.
Q. Did you have to read anything?
A. Well, in order to fill it out, I did.
Q. I mean out loud? Did you have to read anything out loud?
A. No, sir.
Q. Did you have to explain anything?
A. No, sir.

The Court: Did you have to interpret the Constitution?
The Witness: No, sir.

By Mr. Dunbaugh:

Q. Can you read that all right? What does that say [fol. 370] that I am pointing to at the top?
A. "Form of application for registration."

Mr. Dunbaugh: I offer in evidence Government's Exhibit 2-160.
The Court: Let it be filed.

(Whereupon the above described document was marked 2-160 and filed in evidence with the Clerk.)

The Court: How far did you go in school?
The Witness: The seventh grade.

By Mr. Dunbaugh:

Q. Mr. Bryan, how do you pronounce this word?
A. Registration.

The Court: For the record, let it be shown that the word is "registrar".
Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Mr. Bryan, you didn't have to explain to the Registrar anything about the workings of your Government?
A. No, sir.
Q. She gave you no test at all on the interpretation of the Constitution?
A. No, sir, I got no help whatsoever.
[fol. 371] Q. I am not referring to help. I am wondering whether or not you were asked to explain what kind of Government we live under. We are not talking about your getting any help. We are talking about your having to take a test to understand whether you understood this kind of Government.
Did or did not Mrs. Wilder ask you to explain to her some sentence or portion of the Constitution?
A. I don't remember, to tell you the truth.
Q. Could she have asked you that and you not remember it?
A. I don't remember that.
Q. Let me ask you this: Up to now all of the answers you have given to the questions about the reading, and what not, you thought Mr. Dunbaugh was talking about someone helping you; is that right?
A. No, sir, I didn't think that.

Q. Could you have been given such a test and not remember it?

A. I don't believe I had been given a test.

Q. Were you asked to read out of a small book some portion of the Constitution to Mrs. Wilder?

A. No, sir.

Q. You are positive of that?

A. Almost positive.

[fol. 372] Q. Almost positive?

A. Yes, sir.

Q. If Mrs. Wilder would testify you were given the test, what would you say about that? Could you be mistaken?

A. Well, now, that has been so long that I don't know.

Q. Actually, you really don't remember?

A. I really don't remember.

Q. Did your wife pass the first time you and she went together?

A. She went before I did and she didn't pass. She had to come back and study a little slip that she gave her. But I passed and went back the second time and we both passed.

Q. Your wife failed one time?

A. Yes, sir, the first time.

Q. You remember what she failed?

A. She failed to spell "Democratic", I believe.

Q. Finally, and I mean you: You could have been given such a test and not remember? You just don't remember?

A. I just don't remember.

Mr. Kron: That's all.

[fol. 373] Redirect examination.

By Mr. Dunbaugh:

Q. Mr. Bryan, you said your wife studied a slip she gave her. What sort of slip was that?

A. Well, I don't remember that because she didn't give me one to study.

Q. Did you see the one your wife had?
A. No, sir, I didn't.

Mr. Dunbaugh: No further questions.
Mr. Korn: That's all.
The Court: You are excused.

Five minute recess.

(Short recess.)

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[fol. 374] Mary Edith Bryan, White Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Please state your name and address?
A. Mary Edith Bryan, Box 107, Hodge, Louisiana.
Q. How long have you lived in Jackson Parish?
A. For twenty years.
Q. Are you a registered voter in Jackson Parish?
A. Yes, I am.
Q. How many times did you apply for registration?
A. Twice.
Q. I show you what has been marked as Government's Exhibit 4-2. You recognize that?
A. Yes, I do.
Q. I also show you what has been marked as Government's Exhibit 2-162. Do you recognize that?
A. Yes, I do.
Q. What are they?
A. Well, they are applications for registration of voters.
Q. Are these applications that you filled out?
[fol. 375] A. Yes, they are.
Q. Is this one, number 4-2 which is dated September 23, 1960, the one you filled out and failed on?
A. No, it isn't.
Q. The one numbered 4-2 is dated September 23, and the one numbered 2-162 is dated September 24th. Did you fail the first day and pass the second day?

A. Yes, I failed and then passed the next day.

Q. On the first day that you went into the registration office, what did you do?

A. Well, I applied to register.

Q. You filled out this application that I just showed you?

A. Yes, I did.

Q. When you were through with that, what did you do with the application?

A. The first time?

Q. Yes?

A. I handed it back to the Registrar.

Q. What did she say?

A. She said I had failed.

Q. Did she tell you why?

A. Yes, she said I would have to learn to spell this word correctly.

Q. What word is that?

[fol. 376] A. "Democratic."

Q. Did you have to do anything else that day?

A. No, that's all and I went home.

Q. How about the next day when you went back? What did you do the next day?

A. I filled out a card just like the one I had filled out the day before.

Q. That is this other card 2-162?

A. Yes.

Q. When you got through with the card, what did you do with it?

A. I handed it back to her.

Q. What happened then?

A. She gave me a little card saying I was eligible to vote.

Q. Did she ever ask you on either one of these occasions to read the card to her?

A. That I don't remember.

Q. Did she ask you to read anything out loud?

A. I don't remember. I certainly don't.

Q. Did she ask you to explain anything?
A. I don't remember that. I am sorry.
Q. Did the Registrar read anything to you?
A. I don't remember.
Q. You remember whether or not you had to interpret [fol. 377] the Constitution?
A. I don't remember.
Q. Do you think if you had been asked to interpret the Constitution you would remember it?
A. I don't know.

The Court: Have you ever seen the Constitution?
The Witness: That I don't remember.
Mr. Dunbaugh: I want to offer in evidence 4-2 and 2-162.
The Court: Let it be filed.

(Whereupon the above described documents were filed in evidence with the Clerk.)

The Court: Where did you learn to spell Democratic? Between the 23rd and the 24th?
The Witness: I went home and I have children in school and I asked them how to spell it.
Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. On the 23rd when you failed that first test, did the registrar give you a sheet of paper with anything on it to go home and study?
A. No, she didn't.

[fol. 378] The Court: How far did you go in school?
The Witness: Fifth grade.
Mr. Kron: That's all.
The Court: You are excused.

[fol. 379] BERNICE GRANT, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Will you please tell us your name and your address?
A. My name is Bernice Grant, Post Office Box 162, Chatham, Louisiana.
Q. Are you a registered voter in Jackson Parish?
A. I was registered at one time.
Q. Are you registered now?
A. No, I am not.
Q. How old are you, Mrs. Grant?
A. I am thirty-four.
Q. What sort of work do you do?
A. I teach in East Carroll Parish.
Q. Do you have a college education?
A. I do.
Q. What degrees do you have?
A. I hold a BS Degree.
Q. From where?
A. Grambling College.

[fol. 380] The Court: You teach in the high school or elementary school?
The Witness: Elementary school.

By Mr. Dunbaugh:

Q. I show you what has been marked Government's Exhibit 7-298. You recognize that?
A. A form of application for registration.
Q. Is that an application that you filled out?
A. That's right.
Q. What is the date on it?
A. September 8, 1956.
Q. Did you ever get to vote?
A. I did not.

Mr. Dunbaugh: I offer in evidence what has been marked Government's Exhibit 7-298.

The Court: Let it be filed.

(Whereupon the above described document was filed in evidence with the Clerk.)

By Mr. Dunbaugh:

Q. Since you were taken off the rolls, Mrs. Grant, have you applied for registration?

A. I did.

Q. In Jackson Parish?

[fol. 381] A. I did.

Q. You recall when that was?

A. I believe it was in 1960.

Q. Where did you go to register?

A. I went to Jonesboro, Louisiana.

Q. To the Court House?

A. I did.

Q. What happened when you got there?

A. I was given a book and a form. It looked as if it was a magazine. It had no writing at all on the back. It was a plain back and I was given this book and then I was told to read this amendment—the right to bear and keep arms.

Q. Did you read it?

A. I did.

Q. Out loud?

A. I did.

Q. What happened after you read it out loud?

A. I had to hand the book back.

Q. And then what happened?

A. She asked me to interpret it.

Q. Did you do so?

A. I did, and then she asked me, "What else?"

Q. What did you tell her?

A. I told her every citizen has a right to keep ammuni-

[fol. 382] tion and protect his own house.

Q. What did she say after you told her that?

A. She said, "What else?"

Q. What did you tell her?

A. I wanted to see the book again, and then I looked at it and I told her the same thing and she said, "What else?" And she still had the book.

The Court: How do you pronounce the word "M-I-L-I-T-I-A?"

The Witness: "Military".

The Court: That is not right. It is militia.

Do you know what the militia is?

The Witness: Military means—every state has—it comes under the National Guard.

The Court: Every state has the right to maintain a militia.

By Mr. Dunbaugh:

Q. Did you get to fill out an application card at that time?

A. I did.

Q. Did you get registered?

A. No, I didn't.

[fol. 383] Mr. Dunbaugh: If defense counsel has no objection, I would like to mark this note that was in the Registrar's records as "Government's Exhibit 13" and offer in evidence.

Mr. Kron: That is all right.

The Court: Let it be filed.

(Whereupon the above described document was marked "Government's Exhibit 13" and filed in evidence with the Clerk.)

Mr. Dunbaugh: No further questions.

Cross examination.

By Mr. Kron:

Q. Since March of 1960, have you been back to the Registrar's office to register again?

A. I have not.

Q. You thought you were right in your interpretation in March of 1960?

A. I do.
Q. Why is it you haven't been back?
A. I just haven't been back.

The Court: Have you moved to East Carroll Parish now?
The Witness: I haven't moved over. I just work over there.
[fol. 384] The Court: You still have a home in Jackson Parish?
The Witness: I do.

By Mr. Kron:

Q. But you have not been back in the registration office since that time?
A. I have not.

Mr. Kron: That's all.
The Court: You are excused.

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[fol. 385] DARLEAN MCCARTER, Colored Female, called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. My name is Darlean McCarter, Jonesboro, Louisiana.
Q. How old are you, Mrs. McCarter?
A. Twenty-five.
Q. How long have you lived in Jackson Parish?
A. Twelve years.
Q. How much education do you have?
A. High school.
Q. Are you a registered voter in Jackson Parish?
A. No, I am not.
Q. Have you tried to register to vote in Jackson Parish?
A. I have.
Q. About how many times have you applied?
A. Six.

Q. Do you recall when the first time was when you applied?

A. Around March, 1960.

[fol. 386] Q. What happened in March, 1960?

A. Well, I went there and I filled out this application form and I gave it to her and I had to read it back to her, which I did.

Q. You filled out an application card?

A. That's right.

Q. After you filled it out, what did the Registrar do?

A. She told me to read it back.

Q. Out loud?

A. That's right.

Q. The whole form?

A. Well, I read everything that was on there.

Q. I want to show you what has been marked as Government's Exhibit 8-244 sub number 1. You recognize that?

A. I do.

Q. What is that?

A. This is an application form for registration.

Q. Is that one that has been filled out by you?

A. It is.

Q. That one is dated March 12, 1960. Do you think that is the first time you went there?

A. It is.

Q. On the original, there is this note attached, did you [fol. 387] write that? Is that your handwriting?

A. That is not my handwriting.

Q. Mrs. McCarter, after you filled out this application card the Registrar asked you to read the card?

A. That's right.

Q. Did the Registrar ask you to do anything else?

A. She asked me to answer two questions.

Q. Do you recall what those questions were?

A. One was why I was affiliated with the Democratic Party.

Q. What was the other Party?

A. Republican Party. The next question was to tell the difference between the Democratic and Republican Party and explain it.

Q. Did you tell her?

A. I told her why I was affiliated with it but I didn't tell her the difference between—I started but I got confused and I didn't do it.

Q. What did the Registrar say after you stopped telling her the difference?

A. Well, she told me if I couldn't do that, that was all that she could do for me.

Q. When did you go back?

A. I think it was the same month, in March.

[fol. 388] A. Well, she wanted to read out of a book something pertaining to the Constitution and which I did not read.

Q. Did you go back again?

A. After that time?

Q. Yes?

A. Well, I went back about, I think it was in June of 1960.

Q. What happened in June of 1960?

A. She asked me that time to read from the book and I read from the book.

Q. When you first got there, was that the first thing she asked you to do?

A. She asked me what I came for and I told her and she told me to be seated.

Q. And then what happened?

A. Then she taken out this book for me to read.

Q. What did she do with the book?

A. She had it and gave it to me to read.

Q. Did she point out what you were to read?

A. That's right.

Q. Did you read it?

A. I did.

Q. Then what did you do?

A. She told me to interpret it.

Q. Did she take the book back or did you get to keep it?

[fol. 389] A. I gave it back to her after I got through reading it.

Q. What happened then?

A. She asked me to interpret it.

The Court: Do you remember what it was about—what you read?

The Witness: Well, that has been an awful long time. I couldn't state exactly what it was, but it was something pertaining to treason.

By Mr. Dunbaugh:

Q. Did you explain to her what you thought it meant?

A. I started but I just didn't do it because I didn't understand it. If she would let me read it over, I probably would.

Q. Did you ask her if she would let you read it over?

A. At that particular time I didn't ask her to read it.

The Court: Do you know what "treason" means?

The Witness: I think I do.

The Court: Tell us.

[fol. 390] The Witness: I think it is a person who has—something that you have done in government that—it is some type of crime you committed.

The Court: It is a crime against the Government—to try to overthrow the Government or something like that?

The Witness: Yes.

By Mr. Dunbaugh:

Q. When was the next time you went there?

A. I think it was in July that same year.

Q. What happened that time?

A. Well, this time I had—I went in and she asked me what could she do—what could she do for me—and I told her I came to try to register again and she got me to read from the book again.

Q. Did you read it?

A. I did.

Q. Do you remember what that was about?

A. No, I don't.

Q. Then what happened?

A. She also told me to interpret it and each time—at that time I don't know what I told her, but I told her something but what it was, it wasn't right.

Q. Did you tell her what you understood it to be?
[fol. 391] A. No.

Q. On the second time, which was sometime in March, and in June, 1960 and July 1960, did you get to fill out an application card?

A. I filled out one time. That was the first time I went.

The Court: That was the only time?

The Witness: I did fill out two more.

By Mr. Dunbaugh:

Q. When was the next time you went to register?

A. The next time was—I think it was around in March of 1961.

Q. How many times did you apply in March, 1961?

A. Twice, I think.

Q. You look at these two documents here which have been marked Government's Exhibits 8-244 sub numbers 2 and 3. You recognize those?

A. I sure do.

Q. What are they?

A. They are applications for registration form.

Q. These applications that you filled out?

A. Those are.

Q. Referring to the one with the sub-number 2, there is some writing on a note that is attached. Did you write
[fol. 392] that?

A. I did write it.

Q. Is that your writing?

A. It is my writing.

Q. On the one with sub-number three, there is also a note attached. Is that your writing?

A. That's right.

Q. On these occasions—let us take the first one—what did you have to do?

A. When I went in she asked me what could she do and I told her what I came for. I told her I came to register and she told me to take a seat. Then she let me fill out this card and after then she had me to read the Preamble and she dictated some of it back to me—not all of it—and I wrote it.

Q. Was that true on both of these occasions in March, 1961?

A. That's right. If I am thinking correctly, she read something out of a book about the Constitution and told me to interpret it.

Q. She have you read it this time?

A. No, but on the last occasion I didn't read the Preamble. She read it.

Q. She read it and you wrote it?

A. She dictated it to me.

[fol. 393] Q. She didn't have you read anything the last time?

A. No.

Mr. Dunbaugh: I want to offer in evidence 8-244 sub numbers 1, 2 and 3.

I notice the originals have some notes that are not attached to these. I would like to offer those attached to these.

The Court: Let them be filed.

(Whereupon the above described documents were filed in evidence with the Clerk.)

Mr. Dunbaugh: I have no further questions of this witness.

Cross examination.

By Mr. Kron:

Q. Why do you belong to the Democratic Party?

A. Well, I belong to it because it is one that I am for, that's why.

Q. Why are you for it?

A. Because I am.

Q. Do you have any intelligent reason to be a Democrat?

A. I think if you want to be for something, I think you can.

[fol. 394] Q. You are for it?

A. That's right.

Q. What does it mean?

A. Democratic?

Q. Yes?

A. Well, you ask me so many questions—I am not a genius and I can't answer all these questions.

Q. You are against the Republicans?

A. I am.

Q. What do they stand for?

A. I am not a genius and I can't answer all your questions.

Q. When Mr. Dunbaugh asked you what happened the first, second and third times you went into the registration office—I am talking about in 1960—and you answered him about reading back and interpreting this, and so forth, did you tell him the whole story about that—what happened in there?

A. I told him what he asked me.

Q. Let me ask you something. Didn't you kind of give Mrs. Wilder a pretty bad time and object to answering this thing?

A. On which occasion?

Q. On one of those three visits?

A. On the second time, I didn't think I was supposed [fol. 395] to read.

Q. Why not?

A. Because I filled out the card and she didn't tell me the card was wrong and at that particular time I thought that's all that was supposed to be done.

Q. Didn't you tell her that test was only for illiterates?

A. I can't tell you what I told her.

Q. That is what I am trying to find out.

A. I told her I thought if having me to read, I wasn't supposed to do that. If someone came in who couldn't read she was supposed to read it and have them interpret it to her. I told her she was doing me that way on account of I was a negro and I knew I was a negro and I was supposed to have my equal rights.

That is what I said to her.

Q. What is a Republican form of Government?

A. I am not a genius.

Q. You just don't understand anything about it?

The Court: You say you are against all Republicans?

The Witness: Well, I wouldn't exactly say I am against all of them.

The Court: Most of them?

The Witness: Most of them, I am.

[fol. 396] The Court: I am a Republican.

The Witness: I can't help that.

The Court: You are against me?

The Witness: I couldn't exactly say I was against you.

Mr. Kron: I have no further questions.

Mr. Dunbaugh: No further questions.

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[fol. 397] Asserlean Raybon, Colored Female called as a witness on behalf of the Government, being first duly sworn by the Clerk, testified as follows:

Direct examination.

By Mr. Dunbaugh:

Q. Mrs. Raybon, state your name and address?

A. Chatham, Louisiana, Route 1, Box 4B.

The Court: What is your name?

The Witness: My name is Asserlean Raybon.

By Mr. Dunbaugh:

Q. Mrs. Raybon, how long have you lived in Jackson Parish?

A. All my life.

Q. How long is that?

A. Ever since 1890.

Q. Are you a registered voter in Jackson Parish?

A. Yes, sir, I been voting all the time. I tried to vote but I never have made it. I never voted but once and that was when I first went to regis and I regis one time and I have never been able to regis no more.

Q. Do you know how many times you tried since then?

A. Five or six or seven times. Somewhere along [fol. 398] there.

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[fol. 399]

PLAINTIFF'S EXHIBIT No. 21A

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548
UNITED STATES OF AMERICA
vs.
STATE OF LOUISIANA, et al.

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The deposition of John S. Allen, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of John S. Allen, Registrar of Voters, LaSalle Parish Court House, located in Jena, Louisiana, commencing at 8:47 A. M., on the 8th day of October, 1962.

APPEARANCES:

FRANK M. DUNBAUGH, ESQ., Department of Justice, Washington, D. C., for plaintiff.

HARRY KRON, ESQ., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, for defendant.

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[fol. 400] The witness, JOHN S. ALLEN, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name, please.
A. John S. Allen.
Q. And your address, Mr. Allen?
A. Walters, Louisiana.

Q. You are the registrar of voters of LaSalle Parish?
A. Yes, sir.
Q. How long have you been registrar?
A. Approximately eight years.
Q. Do you remember when you were appointed, what date?
A. No, sir, not exactly.
Q. What year was that?
A. It was the latter part of '52, I believe.
Q. When you first became registrar of voters, what procedures did you adopt for the registration of voters?
A. You mean the exact way I went about registering them?
Q. Yes, sir.
A. Well, just the filling of the LR-1 card was my main procedure.
Q. That is the only thing that applicants were required to do at that time?
A. That was my main procedure, yes, sir.
Q. Were applicants at that time required to read and interpret any section of the Constitution?
[fol. 401] A. Not all of them, no, sir.
Q. Which ones were required to?
A. I believe I have given approximately a dozen Constitution tests in eight years.
Q. How do you determine to whom you will give the Constitutional tests?
A. Just occasionally—just—I don't know, just see if one could do it maybe or something like that.
Q. Do you recall when you first gave the tests?
A. I couldn't recall the date, no, sir.
Q. Could you tell me approximately when it was, the first date of the test?
A. I believe that would have been around '55 or '56.
Q. Now, when you give the interpretation test, how do you give it?
A. Present the Constitution book of Louisiana, let them read it, and tell me what it meant.
Q. Do you have them read more than one section?
A. No, sir.

Q. What section do you ask them to read?

A. No particular section, just pick out one when we open the book.

Q. How do you pick out the one that you are going to ask them?

A. Well, I don't know until I open the book. Maybe I'll catch one one time and another the next time.

Q. Do you have any particular method of deciding how [fol. 402] you are going to pick one out?

A. Yes, sir, I do. I have some different articles that I have written down, and I pick out one from those.

Q. Now, what articles are those?

A. Let's see, these are Article 19, Section 12.

Q. Any others?

A. Article 8, Section 8; Article 8, Section 21; Article 8, Section 2; Article 1, Section 2; Article 1, Section 7; Article 3, Section 33; Article 9, Section 3; Article 3, Section 3; Article 1, Section 2; Article 1, Section 8; Article 8, Section 3; Article 8, Section 5.

Q. Is that all?

A. That's all.

Q. Who selected those particular sections?

A. I did.

Q. How did you determine that you would use those sections and not other sections?

A. Well, these are the more simple ones, I thought—not long, drawn out twisters, I call them.

Q. When did you go through and pick out those sections?

A. Just in spare time.

Q. Did you do that when you first took office?

A. Yes, sir, sometime after I took office when I really found out that I had to do this.

Q. Now, when you give someone the interpretation tests, do you just open the book to one of those sections?

A. Yes, sir.

[fol. 403] Q. And then what do you have them to do?

A. Read it.

Q. Out loud?

A. Yes, sir—no, no, not out loud, just read it and give me the interpretation of what they read.

Q. Have you made any study to determine what those sections mean?

A. Just by reading them.

Q. You have read nothing other than the section itself?

A. Just the book?

Q. Yes.

A. That's right, I have read nothing else.

Q. Have you inquired of anybody?

A. Yes, sir.

Q. About the—of whom have you inquired?

A. I have inquired of my judge at the times that I could catch him in.

Q. What did he tell you?

A. He just told me what he thought they meant.

Q. It's not entirely clear to me how you determine whether or not you are going to give the interpretation tests to a particular applicant who walks in?

A. I give it to so few that there's no way to determine. If I'm real busy, I may give it or I may not; but there are very few applicants I give the Constitution tests to.

Q. Did your predecessor, as registrar, give the interpretation tests?

[fol. 404]. A. I wouldn't know.

Q. Did you have to take the interpretation test when you registered prior to the time you were registrar?

A. No.

Q. On what basis did you decide to give the tests?

A. Just that it was in the law that they must be able to read and interpret the Constitution, it was part of the registration procedure. And the reason I didn't give each one the test, I understood it to mean that they must be able to, and not that they must do it each time.

Q. Has anyone discussed this with you or have you inquired of anybody about this?

A. No.

Q. Have you ever given the test from some other source than from the book?

A. No, sir.

Q. Do you know a Mr. Moseley and a Mr. Hodges?

A. I know lots of Moseleys and Hodgeses. I guess you are referring to Mr. Sid Moseley?

Q. Yes, sir, and Mr. James Hodges.

A. Yes, sir.

Q. Who are they?

A. Who are they?

Q. Yes.

A. They are just citizens of LaSalle Parish, as well as I can answer. Hodges is, I believe, a member of the town council. Moseley was a retired trucker, I believe, I'm not [fol. 405] sure what his occupation was. He is now deceased.

Q. Do you know whether or not they were members of the White Citizens Council?

A. No, I don't.

Q. Did they at one time challenge your registration rolls?

A. Yes, sir.

Q. Do you recall when that was?

A. Not the exact date, no. I can—I can get it, though, if you'd like.

Q. Well, if you could give us a date on it, it would help us.

A. 29th of June in 1956.

Q. Do you recall approximately how many voters they challenged?

A. Yes, sir, 345 is the approximate number.

Q. And what ward did they challenge—what precinct?

A. That was Ward 4, Precinct 7.

Q. Did they challenge anybody in any other precinct?

A. No, sir.

Q. Where is that precinct located?

A. We don't have any definite boundaries for Precinct 7.

Q. It covers the whole parish?

A. Not—well, it doesn't cover the whole parish, but just the closest part of, and in Ward 4. It doesn't go out of Ward 4, anywhere in Ward 4.

Q. Is that the precinct that is reserved for all colored voters in Ward 4?

[fol. 406] A. I don't believe there is any other colored in another precinct in 4, no, sir, I'm sure there are not.

Q. Are there any whites in Precinct 7?

A. No, sir.

Q. Do you know approximately how many voters there were in Ward 4, Precinct 7 before they challenged?

A. No, sir, I don't know exactly. I mean, I could take—I believe I could estimate it close.

Q. Give us an estimate.

A. I think it was around 350 something—I'm not positive.

Q. Does it sound correct to you that they left only ten voters unchallenged at the precinct?

A. Yes, sir, it's something close to that.

Q. Did you ever use the interpretation tests prior to that time?

A. No, sir, I wasn't registrar long prior to that time.

Q. Did you first start to use the tests shortly after that time?

A. I gave two tests shortly after the challenging of the voters.

Q. Did anyone tell you at that time or suggest to you at that time that you should start giving the tests?

A. No, sir.

Q. It was purely your own idea to start giving the tests?

A. Yes, sir.

Q. Are the Negro voters in this parish still limited to a particular precinct?

[fol. 407] A. Not all of them, no.

Q. How many precincts are they in?

A. There are now four predominantly colored precincts.

Q. Do those precincts have any white people in them?

A. No, sir.

Q. And do those precincts have boundaries—true physical boundaries?

A. Not a one. I have one precinct that does have predominant boundaries in the parish.

Q. When you give the tests, do you make a record of what provision an applicant is required to interpret?

A. No, sir.

Q. Do you make any record of the answer that he gives?

A. No, sir.

Q. Are you a native of this parish?

A. Yes, sir.

Q. When were you born?

A. March the 27th, 1918.

Q. Did you go to school here?

A. Yes, sir.

Q. How many years of schooling did you have?

A. Eleven—no, not eleven years of schooling, eleven grades.

Q. In the interpretation tests what sort of an answer do you require?

A. Just the meaning of the test—I mean, the meaning of the section that they read.

Q. You don't ask questions to which they give a yes or [fol. 408] no answer or something of that sort?

A. No.

Q. It's a narrative answer, then, instead?

A. No, I don't ask them any questions. They read it and tell me in their own words what it means.

Q. You recited a list before of the sections that you asked about. Have you ever asked any other sections than those?

A. No, sir.

Q. Have you ever published a list of those sections?

A. No, sir.

Q. I have no further questions.

Mr. Dunbaugh: Mr. Kron?

By Mr. Kron:

Q. Mr. Allen, you said that you had given the interpretation tests about a dozen times in your entire eight years—

A. That's right.

Q. —in this office?

A. That's right, sir.

Q. Could you tell me how many of those approximately twelve people were Negroes?

A. Yes, sir, I know exactly; it was two.

Q. Do you mean to tell me that the test was only given to Negroes on two occasions in eight years?

A. That's right.

Q. And the other applicants were all white people?

A. Yes, sir.

[fol. 409] Q. Were both of the Negroes rejected?

A. No, sir, neither were rejected.

Q. In applying the interpretation tests on two occasions to Negroes in eight years, both of those Negroes passed the tests?

A. Yes, sir.

Q. And qualified to register to vote?

A. Yes, sir.

Q. That's all.

Witness excused at 9:11 A. M.

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[fol. 411]

PLAINTIFF'S EXHIBIT No. 21B

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF CLEIGHTON L. BUSHNELL, taken at instance of and on behalf of the Plaintiff: on August 24, 1962, in Rapides Parish Courthouse in the City of Alexandria, Louisiana.

* * * * * * *

[fol. 412] CLEIGHTON L. BUSHNELL, witness called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. State your name and address, please?

A. Cleighton L. Bushnell, Woodworth, Louisiana.

Q. And you are the Registrar of Voters of Rapides Parish?

A. I am.

Q. How long have you been Registrar?

A. I was sworn in June 13, 1956.

Q. Who was your predecessor, who was Registrar before you?

A. Sidney Campbell.

Q. When you first took office, did anyone explain to you what your job would be?

A. No.

Q. Did anyone go over with you the procedures for registration?

A. I went to the State Department of—the State Director, Douglas Fowler at that moment, and we went over the procedures of registration.

Q. What did Mr. Fowler explain the procedures to be?

A. Only those found in the acts of Louisiana, the laws of Louisiana, the various requirements for registration; the residential requirement and the age element.

Q. What procedure then did you adopt?

[fol. 413] A. The same procedure that I'm using today. The law requires that each applicant be a resident now for one year; at that moment it was two years in the state and one year in the parish. Currently it's one year in the state and six months in the parish; 21 years of age, of good character and—

Q. Well, what I was driving at, if I may interrupt, is: Just precisely what is an applicant required to do when he comes into your office?

The Witness: When he comes into the office for registration?

Mr. Dunbaugh: That's correct.

A. Our requirements are that they furnish some proof that they have been bonafide residents of the state and in the parish for the required time. They are also required to be able to give a reasonable interpretation of the parts of the constitution that we use, of the United States and of Louisiana; fill out their own application without any assistance, memorandum or discussion.

Q. After an applicant has established his residence, is he first required to interpret the constitution before he fills out the application form?

A. He is.

Q. And if he fails to do that satisfactorily, does he then go on to the application form?

A. If he fails to give what we feel to be at least a reason-
[fol. 414] able interpretation of the constitution, we inform them that they are not disqualified; but that they should go out—we advise them to get with someone to explain to them the various clauses that we require; and at any time, they have the right to come back and make application.

Q. Do you tell him which clauses you require?

A. We only use one, and have only used one since I have been there, one set; Article-1, Section-1; Article-1, Section-3; Article-1, Section-4 of the Constitution of the United States· Article-3, Section-29; Article-2, Section-1; Article-3, Section-20 of the State Constitution. This is the same procedure we have followed all the way through since I have been in office.

Q. You have in your hands a mimeograph sheet; may I see it, please?

A. Yes.

Q. In administering the interpretation test, do you use this mimeographed sheet?

A. Yes sir.

Q. In what manner do you use it?

A. We place that in the hands of the applicant; ask them to look it over and prepare themselves to give us a reasonable interpretation of any article included there, and it's before the applicant at all times.

In cases where we have those that contend they are un-
[fol. 415] able to understand the words, the long words in there, we do explain to them, as best we can, the meaning of the words. There's only one that seems to be a problem to them, the word "adjourn" there is puzzling to many people; they misunderstand it, and we try to explain to them that that means to dismiss.

Q. After the applicant has looked this over, with the instructions that you just recited, what is he then required to do?

A. To give the interpretation as to the meaning of the various articles.

Q. He must give an interpretation of each of these articles?

A. Not necessarily; if they give us an interpretation of 2 or 3 and it's clearly indicated that person is understandable about what they are reading, well we go into the LR-1 card.

Q. Well, what I'm driving at is this: That after the applicant has read this over, what do you ask him to do?

A. I ask him to give me an interpretation as to the meaning. He still is in possession of this, he can refer down there and call off whatever one he is interpreting.

Q. In other words, the applicant may pick out any one of these and interpret it.

A. He can.

Q. And if he interprets one satisfactorily, is that sufficient—

A. Well, we usually require at least two; in some cases three where they foul up on one. Sometimes we can't under- [fol. 416] stand what they are driving at; and I mean by that, we have many applicants to come in, and they will read Article-1, Section-1, and say "The right to vote"; and I say, "All right, how about Article-3, Section-20?"—and they'll still say, "The right to vote."

We like to know that they do understand what they are reading here, and to give us an interpretation of it. Where they start in and give us a reasonable interpretation of one, and then go to the next one and do well; in most cases, well, that's about the extent of the constitutional test.

Q. In other words, if he does the first two correctly, then he won't be asked about any more?

A. He's usually stopped there.

Q. Does he pick out which two that the first two will be?

A. He has the preference. In most cases we find that they would like for us to question. We don't like to ask questions about it, because I might ask a question that would be confusing to what they have read.

We ask them to read it over; we don't require them to read the article or section to us. We first give them an opportunity to brief themselves, because I find that many

people—it doesn't matter, in all walks of life—are unaware of the fact that on appearing in my office, they are required to undergo a test; and it throws them off, they become nervous. Sometimes we have to stop and talk to people to [fol. 417] get them collected before they are able to go on.

Q. Now, if the first two are not interpreted satisfactorily, do you stop them, or do you let them go on to the third or fourth?

A. We let them go on, and in trying to be fair to the applicant, we do not require that they give us what we deem to be a correct interpretation of all of them.

We found that some of them, one particularly—that is, Article-3, Section-29—has what I say is a dual meaning there; "Any member of the Legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the House of which he is a member, and shall not vote thereon." Well, it's confusing, and that one we never bear down on; and the reason I leave it in is that I've got so many of these mimeographed, and I didn't want to get up some more of them; but we realize that we are not an authority on the constitution, nor do I know that anyone is, but we do try to be fair to the applicant.

Our purpose in giving this—and, incidentally, this is required of each applicant that enters the office; the only exception that's made is where a person has been registered in another parish and has come into our parish, been here the required time; and if he presents us with a card showing they are on the rolls of some other parish, we as-[fol. 418] sume that they have already undergone this part of it, and we therefore waive it.

Now, that has confused my applicants, they're not understandable as to why we do it, and we have had fingers pointed at us and say; "You didn't require him—" or her, or whatever the case may be, but that's the only exception we have made.

Those people that come in and tell us that they are registered and do not have a card, we have no way of knowing whether they are registered or not; then they do have to undergo the constitutional test.

Q. How many of these sections would an applicant have to fail on consecutively before you would stop him, ask him not to continue?

A. Before I would stop him, he would have to fail [redacted] six of them.

Q. Does your deputy follow the same procedure?

A. As far as I know; while I'm in the office she does.

Q. How many deputies do you have?

A. One.

Q. What is her name?

A. Mrs. Thelma Daigre.

Mr. Dunbaugh: Mr. Kron, do you have any objection to attaching this to the record as an Exhibit?

[fol. 419] Mr. Kron: Not at all, I'll join with you in the offering.

Mr. Dunbaugh: Mr. Reporter, will you mark that as Exhibit P-1, please.

(Exhibit marked by reporter as instructed by counsel.)

Q. How old are you, Mr. Bushnell?

The Witness: My age?

Mr. Dunbaugh: Yes sir.

A. Fifty-six.

Q. Where were you born?

A. Eunice, Louisiana.

Q. How much education do you have?

A. High school and two years of business administration.

Q. Were you a registered voter in Rapides Parish before you became the Registrar?

A. No sir, I went to the office the first time when I was sworn in and given the keys.

Q. No, I meant were you a registered voter of Rapides Parish?

A. Oh, a registered; yes sir, I've been a registered voter in Rapides Parish since I become 21 years of age.

Q. The last time that you had to register to vote, what did you have to do?

A. Fill out my LR-1 card.

Q. Did you take the constitutional test?

A. No sir.

[fol. 420] Q. Is there any record made of the answers to the interpretations that an applicant gives?

A. No sir.

Q. You said that when an applicant was rejected that he was told to go out and study these provisions?

A. Yes sir.

Q. Is he permitted to take this copy of P-1 with him?

A. He is permitted to take down the articles and sections. We prepare this for their convenience; it isn't required that we even furnish them with a copy of this, but for their convenience—sometimes there's several in to register, and to speed up the activity we—even before the time comes, if we have a crowd we will pass them out ahead; but I don't feel that we are required to give them a copy of this, but we do permit them to take the article and section numbers. At the same time we inform them that should there be any change—you know, we have had numerous changes in the laws of our state, and we tell them that so far as we know that this is what they will face when they come back; but we wouldn't want them to feel that we were double-crossing them should there be a change that comes about.

Q. I believe you said that these sections have been the only ones in use since you've been Registrar?

A. These are the only ones. I found—and I imagine it was a practice before I came into the office, because in the [fol. 421] material I found, I found copies similar to this with written answers, and they were rather lengthy; and after studying, I picked out the ones that I felt like was fair to the applicant and fair to the law itself, and confined it to the ones that you have, that I've given you a copy of. I think that the Federal Department has seen this before, because I've been visited before; and they found this same set used, and it is the only one that we have used.

Q. You say that in studying or looking over the records of the office when you first took office, that there were questions, in addition to these, that were used?

A. Yes sir.

Q. Prior to your time?

A. Yes sir.

Q. And that the answers were written?

A. The answers were written on a sheet attached underneath each of the articles, and underneath there were answers. I suppose that the Registrar had prepared that so his deputy would be in a position to know what to accept.

Q. The answers were answers of the applicants, or answers that the Registrar had prepared?

A. Had prepared as being, I imagine, acceptable. I didn't talk to the man about it. I don't know whether it was Mr. Campbell or the deceased Mr. McCulley. You see, I was the fourth Registrar in a period of four years, or the fifth [fol. 422] one, rather. We had one to die in office, and then Mr. Campbell was appointed and served probably two years; and when he was terminated, I was appointed.

Q. But prior to your time, the applicants' answers were not recorded?

A. The question again?

Q. I say, the records in your office don't reveal that the answers of the applicants were ever recorded?

A. Oh, no. No, there's never been, to my knowledge, any written tests in the office.

Q. What instructions have you given your deputy with respect to what she should look for in the answers to these?

A. In going over this with Mrs. Daigre—we went over it after I hired her as deputy, which it was, I believe, some two weeks after I was appointed; and we went over it—Mrs. Daigre had worked for Mr. Campbell probably 6 or 8 weeks—in fact, she was in the office when it was closed.

In going over it with Mrs. Daigre, I told her that all that I expected, and I thought all that the law expected, was to process the applicants within the law, being fair to each applicant and not bearing down too heavy and wanting a verbatim on these things, that that would be confusing. We went over the articles and we discussed that, and at the same moment I instructed Mrs. Daigre that each applicant should be informed as to their rights, and to the [fol. 423] fact that their failure one time did not disqualify them, that they could come back even within the same day

if they so chose. In the little better than six years, we have had—to my knowledge we've had no trouble. We see people in all walks of life and, of course, we have those that have a gripe, but it doesn't necessarily mean that its brought on by any pressure that we bring to bear. I think everybody has those, but—

Q. What sort of an answer do you require, is what I'm getting at? For instance, with Article-1, Section-3 would the simple "Freedom of Speech" be sufficient?

A. Any time they'll say "Freedom of Speech" or "Freedom of the Press", and bringing out the fact—we like for people to be aware of the fact that they are responsible for what they say; and should they just say, "That gives us freedom of speech and freedom of press," we may ask them the question, "With what provision?"—and then they'll refer back to the—that each person is responsible for what they say, and so forth.

Q. Suppose they said "Freedom of Speech" without any reference to press?

A. Well, that would be acceptable, but so seldom does that happen that I—

Q. For Article-1, Section-4, would "Freedom of Religion" be a sufficient answer?

[fol. 424] A. Yes sir; without any further ado, that is acceptable.

Mr. Dunbaugh: Mr. Kron, do you have any questions?

Examination.

By Mr. Kron:

Q. As a practical matter, Mr. Bushnell, in all of your years, how many people have been rejected solely because of this test?

A. Well. that would be rather hard—we don't keep a record of the number.

Q. Well, let's confine it, then, to a period of time within your immediate memory, and let me ask you: Could you approximate how many people have been rejected since, say, January of 1962, solely because of this test?

A. Since January of 1962, I have in mind two people that—they were not rejected, they came in and were unable to read and write; but we had three that I recall that were rejected the first time, and two of those have come back since and are now on the rolls.

Q. Do I take your answer then to mean that in the eight months of this year, 1962, that in your recollection there have only been approximately five people who have had difficulty solely because of this interpretation test?

A. No, I misunderstood your question. Now, we have many that will appear—I say many, it's not too great a per cent—that will look at that and tell us, "Well, I can't [fol. 425] do it, I don't have the education."

See, since the change in the law under the new constitutional amendments, whereby people that are unable to read and write are unable to register; well, we have quite a few people in Rapides Parish that are not educated enough to read and understand, not only this but the LR-1 form.

Q. But eliminating those who eliminate themselves by admission that they are unable to, let's think only in terms of those whom you have rejected for failure. Then, in that case, in your recent memory; say since January of this year, how many would you say were rejected because you failed them in your acceptance of their answers?

A. Well, I can only recall that original five that I'm talking about. See, in spite of the fact that our office is open full time, except for the day before an election, we're seeing so few people of both races, and that shows what our monthly activity is.

Q. Now, of those five people that you recall that failed because of your decision, you say that two of those have come back and qualified?

A. Two of those have come back and are on the rolls.

Q. So that there are only three, then, during this year, in your memory, that were failed by you?

A. Yes.

Q. Now, of those three, how many were negroes?

[fol. 426] A. Two of them were negroes. Now, that too is an unusual case; they mailed in a duplicate of the LR form. Someone had taken the LR form on a piece of bond

paper similar to this, and in handwriting other than the signature that was on these papers I got, the copy had been completed and it was mailed in to me. At a later date this couple appeared and wanted to know why they hadn't been mailed a registration card; well, I didn't even answer. I kept the copies when I got them, I knew eventually I would probably see them; and when they asked why they had not been mailed a little white card—as they referred to it—the permanent card—they had probably seen the one that their neighbors had, or someone, and I told them that they were not registered.

They said, "Yes, we mailed it in," and then I recalled the mailing; and I looked up the envelope that contained these things and I said, "Are you the people that mailed this in to my office?"—and they said, "Yes." So I explained it to them; I said, "What you have done is not according to law. In the first place, the law of Louisiana required that each person appear in person and fill out their application card before the Registrar or his deputy."

I said, "Along with that, there is a requirement that you interpret the constitution"; and I said, "First I would have to have some proof as to whether you are a resident of Rapides Parish, whether you have been in the state and parish long enough."

[fol. 427] Well, they didn't have anything to confirm that they had been in Rapides Parish, or even in the State of Louisiana, long enough, except the fact that they were on the assessment rolls; and so I went on and I said, "Well, for the time being we will take that," and I gave a copy of this to each of them, gave this copy.

Well, they looked at it and said, "Well, we were told all we had to do was to come up to your office and pick our cards up." I said, "Now, that's not—"—it happened there were some people in the office then registering; and I said, "You can see these people have appeared, and they are now filling out their cards, they have already taken their constitutional test."

Q. Well, did they refuse to take this test? A. Well, each of them looked at it and came to me, and they said they would be back, that they didn't quite understand,

but that they would be back; but to this date they haven't been back in.

Q. So that as a positive matter, they actually didn't fail the test?

A. They didn't fail, they just—

Q. They just simply didn't take it?

A. Uh huh, that's right.

Q. So that leaving, then, the results of this year, and eliminating the two others who have since applied and [fol. 428] become registered voters; there is only one person, during all of this year, who has been deprived of the right to vote by this procedure?

A. Uh huh. (Affirmative)

Q. And that is a white person?

A. Uh huh, it is a white person. We do have a greater number of white people who do come in; our colored activity in the past three years has been a little unusual, we see very few of them. The ones that we do see are usually capable of meeting any requirement.

They are processed exactly like any other applicant, the law only refers to an applicant as an applicant, and that's the way we have tried to handle it. In our discussion with the Judge, the Attorney General's Office and even with Mr. Pharis, I've always been informed that we were to be uniform in our activity, that there would be no—

Q. And from those three sources, has the advice also included the words, "To be indiscriminate in your application of the rules?"

A. That's correct, that's what I have been told, and what I have tried to practice.

Q. So that as a practical conclusion, then, the fact that there are not more negroes on your registration rolls is simply because of the fact that they do not appear to apply; is that correct, sir?

[fol. 429] A. That's correct; that's correct. We had our first four-year purge last October, and I think, if I'm not mistaken, we showed on our last monthly report 3,006 negroes; and the voter purge of October of last year, which was at the end of our four years—under the permanent registration laws, a person must vote at least once every four years.

So, in taking our inventory of the voters, we lifted all that had not voted, and that included over a hundred—I think it ran 140-some-odd negroes. Each person was mailed a mailing, notifying them that they were subject to being dropped; and names were also advertised, as the law requires, in the legal journal, giving them an additional ten days in which to appear for reinstatement if they were here. In that program I think we had some 5 or 6 negroes that came in and proved that they had been here, just had failed to vote. Well, they were merely reinstated, they were not required to fill out a new card or—

Q. By the word "purge", you mean your 4-year cleaning of the rolls, as required by law?

A. That's right.

Q. You do not mean a citizens' privately sponsored purge?

A. Oh, no; no, that's a duty that we are directed to do now. Now, maybe after this runoff, we will begin now taking an inventory; and all of the voters that we find that have failed to vote in a 4-year period, we notify them. That's a procedure that is followed.

[fol. 430] Mr. Kron: That's all the questions we have.

Re-examination.

By Mr. Dunbaugh:

Q. When a person is rejected for failure to interpret the constitution, is there a record made of that fact?

A. No sir.

Q. Is there any record that he has been in the office at all?

A. No. It isn't required by law, that I know of, to—

Q. Since he is given this before he is given the LR-1, if he fails this there would be no record that he has failed the test?

A. His LR-1 is retained if he fails on it, we have those.

Q. But doesn't he fill in the LR-1 after he has done this? Does he do this before he does the LR-1?

A. Yes sir.

Q. So that if he fails this, there is no record that he has visited the office?

A. No.

Q. Do you give any other tests, other than the LR-1 and this?

A. No, the only thing is that we have that card that they sign.

Q. The oath card?

A. The oath card.

Q. Do they have to read and write the preamble; does an applicant have to read and write the preamble?

A. No.

[fol. 431] Mr. Dunbaugh: That's all the questions.

Re-examination.

By Mr. Kron:

Q. Despite the questions that Mr. Dunbaugh has just asked you as to their being no record of those who failed the interpretation test, and subsequently do not get to the point of filling out an LR-1; your statistics on the five people we have talked about, since January 1, 1962, would include all of those within your memory, who were deprived of the right to vote because they failed this test?

A. That's right.

Q. It would not, of course, include all of those who refused to take the test—?

A. Oh, no.

Q. —and who failed themselves?

A. No, we have some that become indignant and really work us over on this, but we can't rope them and tie them down. Now, that's what they're asked, each applicant, and if they become indignant and walk out, well they're exercising their right to do so.

Q. And you have whites and negroes who do that?

A. Mostly whites.

Q. Mostly whites?

A. Uh huh. (Affirmative)

Mr. Kron: That will be all, sir.

Mr. Dunbaugh: That's all. Thank you, Mr. Bushnell.

Witness excused.

[fol. 432]

PLAINTIFF'S EXHIBIT No. 21C

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA,

*Plaintiff,*

versus

STATE OF LOUISIANA, et al.,

*Defendants.*

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DEPOSITION OF MRS. ORA CAMERON, taken at the instance of and on behalf of plaintiff herein; on August 23, 1962 in the Ouachita Parish Courthouse in Monroe, La.

* * * * * * *

[fol. 433] MRS. ORA CAMERON, witness called on oral examination by Counsel for Plaintiff herein; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Would you state your name and address?

A. Mrs. Ora Cameron, Forest, Louisiana.

Q. Are you the Registrar of Voters in West Carroll Parish?

A. Yes, I am.

Q. How long have you been Registrar?

A. Since July of 1952.

Q. Are you a native of West Carroll Parish?

A. Almost, I've been there since I was two years old.

Q. Where did you come from originally?

A. Grayson.

Q. How much education do you have?

A. Just high school.

Q. When you first took office as Registrar of Voters, did anyone explain the job to you?

A. No one other than the Police Jury members. The previous Registrar had a habit of her own, filling out every application; no one had to fill the application out if they didn't want to.

Q. And what did the Police Jury explain to you?

A. That they were appointing me Registrar and that they [fol. 434] wanted me to abide by the laws of the State of Louisiana.

Q. What procedures, then, did you adopt at that time?

A. Well, we only had then the LR-1 application, form of application for registration, and I let those that had sufficient education complete the cards, fill their own cards out; and those that couldn't read and write, I believe at that time it was legal for them to register, if they could give you a reasonable interpretation of any section of the constitution that you picked out for them; and those people were allowed to register, and I filled their cards out at their dictation.

Q. Did you ask them about the constitution?

A. Yes, I did.

Q. What did you use to ask them, did you use a book?

A. A book just like this one. In those cases I would have to read it to them, you know; but I never mentioned the word "constitution" because I feel like that would frighten them.

Q. So, since that time you have started to ask all applicants about the constitution?

A. No.

Q. When did you start to do that?

A. Let me get this straight; in '56.

Q. Are the procedures you started using in '56 the same as they are now?

A. They are.

Q. And are they the same as they were for illiterates [fol. 435] prior to that time, other than that you read it aloud to them?

A. They are.

Q. Now, why did you start to use the interpretation test for all applicants?

A. Well, I believe all of the Registrars were called to a meeting, and I think it was in this courtroom, and they asked us all to go according to the laws of the State of Louisiana in registrations; and in that way then we shouldn't have any trouble, and asked us not to discriminate between anyone; and that's when I started using it, at the beginning of the new registration in '57.

Q. Who asked the Registrars to do this?

A. You know, I don't remember the men. I know Mr. Gremillion was here, and I guess Mr. Reynaud was our director then, Director of Voter Registration; and, oh, there were several men that I didn't know.

Q. For the record, I believe that's David R-e-y—how is his last name spelled, do you know?

A. I believe that's (spelled) R-e-y-n-a-u-d.

Mr. Kron: I think that's correct.

A. No, I don't believe Mr. Fowler was director then, but it's possible he was. I'm not sure whether it was Reynaud or Douglas Fowler, but I think—

Q. Was Senator Rainach present?

A. I don't know him. If he was here, I didn't know it.

[fol. 436] Q. I want to show you Appendix-B to the complaint in this case. These are cards containing provisions of the constitution—

A. I have a few of those cards there, I think they mailed us 50 of them, and I can't recall how many different cards there are in that 50; but I believe they were mailed from the Board of Registration, but I'm not sure about that.

Q. Were cards like that passed out at the meeting and a discussion held?

A. No, they were not; but I didn't use these cards but I guess maybe a week, and people began to write on them. We were not going to have any published, we were just going to let each person use them and then the next person use them, the cards; but they began to write on them, so

we just started using that book and threw the cards away, we don't even have them.

Q. Now, your parish is on periodic registration?

A. Right.

Q. Have all applicants, since January 1, 1957, been required to interpret the constitution?

A. They have.

Q. If an applicant was required to interpret the constitution and successfully interpreted it, between 1957 and 1960; if he comes in to reregister during the 1961-1964 period, is he required to interpret again?

A. I give it to all of them.

Q. What procedure must an applicant follow when he [fol. 437] comes to register?

A. Well, unless he is either personally known to me or his name is familiar—if his face is not familiar, I usually ask him his name; and if it's a name that I've heard or I know that he has been registered, I don't require identification; but if it's an unusual name, someone that I've never heard of, well I explain to him that he will have to have identification.

Q. Then what is the next step after they identify themselves?

A. Give them an application, and if they complete the application and when they hand it to me, I ask them if they are through with it and they say yes; and if I see errors on there I ask them to recheck it, I give them a chance to make the correction on the affidavit; and if they tell me they don't have any errors on there, that they don't see any errors, then I tell them that I'm sorry, that there are errors there, and that if they want to they can come back later and try again. I don't give them a constitution test when they fail the application.

Q. If their application is satisfactory, then what do you do?

A. I give them the constitutional test.

Q. And how do you do that?

A. Just pick up this book and probably turn to the dirtiest page in there, the ones that we've used mostly.

Q. And do you hand them the book then?

[fol. 438] A. Right.

Q. What do they do then?

A. They will read it, and sometimes they will say, "Well, I don't know what you mean;" and I'll say, "Just tell me in your own words what you get out of reading that article there?"

Then if they tell me enough that I know that they have an understanding of that particular section, I will accept it; because I tell them they don't have to use any fancy words, to just tell me in their own words.

Q. Do they read it out loud?

A. They can if they want to. They will usually ask me—when I tell them, I'll say, "Read this, and then in your own words tell me what you think it means." They'll say, "Read it aloud?" I'll say, "Well, you don't have to."

Now, if there is no one in there, they do read it aloud, but if there's others in there they don't; but they are not required to read it aloud.

Q. Are they permitted to keep the book and continue looking at it when they offer their explanation?

A. That's right. If they tell me they don't understand it, I say, "Read it again, because I'm sure you've heard of it all your life."

Q. If they don't understand a word and ask for a definition of the word, will you explain the word to them?

[fol. 439] A. I will, especially on the LR-1; a lot of them say, "I'm afflicted with—" and I'll tell them that that's affiliated, that that means whether they're Democratic or Republican. Maybe I'm going too far there to tell them, but I do tell them.

Q. Do you tell them also in the constitution, what a word means if they ask?

A. Well, yes, I have told them, but there are not too many of these that the average person couldn't tell.

Q. Now, do you ask about all sections of the constitution, or particular sections?

A. Just particular sections.

Q. Do you know which ones they are?

The Witness: Do you want me to pick them out for you?

Mr. Dunbaugh: If you would, please.

A. All right. I use Article-1, No. 2, 3, 4, 7, 10, 11; and I know there is a Section 29 here that's a very simple one.

Q. The first ones that you were reciting were from the Bill of Rights—

A. The Bill of Rights, yes.

Q. —of the State of Louisiana?

A. That's right, yes—and this Section-29 under Article -3.

Q. Of the Louisiana Constitution?

A. Yes, I don't have a United States Constitution, I use a Louisiana Constitution altogether.

[fol. 440] Q. How did you happen to select those particular provisions?

A. Well, they seemed to be more self-explanatory, easier and what I felt like the average person could tell me; because I really don't want to give a test to somebody just to fail them, just to see them fail.

Q. Have you always limited it to these sections?

A. Yes, I have.

Q. When you first started to use the test, did anyone explain to you how the test should be administered or what—

A. I discussed it with an attorney that we have there, he's just across the hall from me. I wanted to be able to know what I was talking about, and when they gave their interpretation, I wanted to know whether they knew what they were talking about.

Q. Did this attorney help you select these sections?

A. No, he did not; maybe he didn't even—well, I'm sure he didn't, we didn't even check on all of them, just maybe one particular one that I had asked him to explain to me, what he felt that meant; but I did not check with him on all of them.

Q. But he went over some of these sections with you and explained them to you a little bit?

A. Oh, nothing only just one that I asked him, maybe one that I asked him; but I did discuss it with an attorney.

Q. In determining that you would administer the test in [fol. 441] this manner, was that your own determination?

A. It was, because I've never had any outside influence or interference at all.

Q. And in determining whether an answer is satisfactory, are you the sole judge of that?

A. Unless my deputy is there, and if she is working she has the same responsibility in accepting an application that I have.

Q. Do you know whether or not she uses the same sections?

A. I'm sure she does.

Q. What is her name?

A. Mrs. Olive Primm.

Q. Have you ever instructed her as to how she should use the test?

A. No, other than when she first started to work I explained to her what the procedures of registration were, and I told her we wanted to run our office fair and impartially; and I have all the confidence in the world in her, I think that's what she is trying to do.

Q. Is there any record kept of the provision an applicant is asked to interpret?

A. Only if he fails, there is a notation made on the back of his card.

Q. The LR-1 card?

A. Right.

Q. A notation of the provision?

[fol. 442] A. And section.

Q. Is there any record kept of the answer that he gave?

A. No.

Q. Whether he passed or failed?

A. Oh, if he fails there is no answer kept, or if he passes there is no answer kept; but there is only a notation made on the back of the card for those who failed the constitutional test.

Q. How do you determine which section you are going to ask a particular applicant?

A. Well, there is really no way to determine it, just open your book and hand them one. If you're going to be fair about this thing, there is no way to determine it, you don't want to just sit up there and pick out something hard for somebody just because maybe they aren't as well an educated person as you are.

Q. From among those that you use, how do you decide that one person is going to get Section-6 say, and somebody else 7?

A. Well, I feel like one is about as easy as the other.

Q. What sort of an answer is satisfactory to you?

A. Well, I tell them usually, "In a very few words, just give me your interpretation"; and just so that I know that they have gotten the meaning of it, of the particular section that I gave them; and then there is sometime they will say, "Well, I don't believe I know that one." I'll say, "Well, [fol. 443] try the next one down, see if you know it."

Maybe I don't even know what it is myself, but I give them a chance to—you know—try another one; because they have the book in their hands, and I wouldn't even know what the next one is maybe.

Q. Is each applicant advised as to whether or not he passed or failed?

A. He is.

Mr. Dunbaugh: That's all. Mr. Kron, do you have any questions?

Examination.

By Mr. Kron:

Q. Mrs. Cameron, how many people are registered in your parish at this time?

A. I have figures here that it's 2,300-and-something as of the date my books closed, if I can find it; 2,346.

Q. All right, how many of those are negroes?

A. Twenty-five.

Q. Now, since the beginning of your new registration period in 1960, how many people have been rejected?

A. All right. I have had 32 colored that was rejected; 14 of those came back later and qualified, and of those 14 there was two had failed on the constitutional test and 12 had failed on the application.

Q. So, only two negroes have failed—

[fol. 444] A. Now, 18 of those original 32 have not come back and applied for registration.

Q. I see, but only two negroes—

A. Now, it was four of those failed. In fact, I have had six to fail the constitutional test out of the 32, but two of them came back and passed it, so it leaves just a total of 4

that have failed the constitutional test. Now, the whites, do you want those or not?

Mr. Kron: Yes.

A. We've had 15 rejected that have returned and registered; one failed the constitutional test, and 14 failed on the application; and I have 60 whites that failed, and they have not returned. Five of those failed the constitutional test and 55 failed on the application.

Q. Has there at any time been any use of the constitutional interpretation test to keep negroes off of the rolls in your parish?

A. No.

Mr. Kron: That's all.

Mr. Dunbaugh: That's all, thank you very much, Mrs. Cameron.

Witness excused.

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[fol. 445]

PLAINTIFF'S EXHIBIT No. 21D

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA,

*Plaintiff,*

versus

STATE OF LOUISIANA, et al.,

*Defendants.*

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DEPOSITION OF MRS. LULA CHEEKS, taken at the instance of and on behalf of Plaintiff herein; on August 23, 1962 in the Ouachita Parish Courthouse in Monroe, La.

[fol. 446] MRS. LULA CHEEKS, witness called on oral examination by Counsel for Plaintiff herein; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Please state your name and address?
A. Lula Cheeks, Mangham, Louisiana.
Q. And you're the Registrar of Voters of Richland Parish?
A. Yes sir.
Q. How long have you been Registrar?
A. Since 1945; February, I believe.
Q. When and where were you born?
A. Mangham, Louisiana.
Q. Have you always lived in Richland Parish?
A. Yes.
Q. What education do you have?
A. I completed my sophomore year in college.
Q. When you first took the office, did anyone explain to you what your duties would be?
A. I became Deputy Registrar in '44, my husband was Registrar then; and when he went in Service he explained what he knew about the office, and I took charge.
Q. What were your procedures at that time?
A. The LR-1 form and signing the register book.
Q. And no other requirements?
[fol. 447] A. No.
Q. Have you changed the procedure since that time?
A. Yes.
Q. When did that change occur?
A. In 1957 I began using the constitutional test, January of 1957.
Q. Have you had a purge of the voter registration rolls, in late 1956?
A. Yes. Not a complete purge, but a couple of wards were purged.
Q. Were those predominately negro wards?
A. No, they were my bigger wards.
Q. In Rayville?

A. In Rayville and in Delhi.

Q. What procedure did you adopt in January, 1957?

A. I began to use the constitutional test, orally.

Q. And has your procedure changed since 1957?

A. Well, if they had the constitutional from '57 to '61, I don't give it to them when they return for registration; those people that had it don't get it the second time.

Q. To clarify that, you have periodic registration?

A. Yes.

Q. And you had a complete new registration starting in January, 1957, and then again in January, 1961, is that correct?

[fol. 448] A. Yes.

Q. Now, what is the order of procedure in the registration of voters in Richland Parish?

The Witness: Now; when they enter the office, what do they do?

Mr. Dunbaugh: Yes.

A. I give them the oath card and the LR-1 form, and when they have completed that, if they are a new registrant I give them the constitutional test.

Q. Do you first examine the LR-1 form to see that it is correct?

A. Yes.

Q. Before you give them the interpretation test?

A. Usually, I do.

Q. And if it's not, then they are turned away before they get to the constitution?

A. I don't believe, I believe I just go—generally I just go ahead and give them the constitutional test, to convince them too. I believe I always do give them—

Q. So that no final determination is made as to whether or not they have qualified, until they have gone through the entire process?

A. That's right.

Q. And with persons registering for the first time, at least for the first time since January, 1957, this procedure has not changed since January 1957?

[fol. 449] A. Well, the legislature last time added that we

give them the preamble; read and write a portion of the preamble, and I do that.

Q. What preamble do you ask them to read and write, the preamble to the United States Constitution?

A. To the United States Constitution.

Q. Why did you first adopt the interpretation test?

A. Well, after my rolls were purged, I decided that when they were in there I was going to do everything that was written in the laws, as nearly as possible, and that's just since that time. Of course, that was in October of '56 that my rolls were purged, and the books—we didn't have many more registrations then. In January of '57 is when I began doing as nearly as possible everything that was required.

Q. Did anyone suggest to you that you do this?

A. Well, yes, I guess so. Being upset over the purge of the rolls, naturally I talked to my Police Jury, and they said all I could do was follow the letter of the law; and I talked to the other Registrars too, I just talked shop everywhere I went.

Q. Did anyone other than the Police Jury people talk to you about it?

A. Yes. As Mrs. Hatten said, at our convention we've always had a forum, and we've been encouraged to stick [fol. 450] far more closely to the letter of the law.

Q. You were encouraged by whom?

A. Well, usually we divided into two schools of instructions, periodic and permanent, and different ones have lead us in our discussions. I really don't know, sometimes the President of the convention maybe, it seems like; but they have been different ones, Mr. Jody Smith for one, and just different ones that have studied the laws closely; and we all joined in the discussion, and it wasn't really headed by anyone—I mean, it was headed by one particular one, but it was for everyone to join in.

Q. These are the state-wide conventions of Registrars?

A. Yes.

Q. And it's sponsored by the State Board of Registration?

A. Yes.

Q. Now, in administering the interpretation tests, what source do you use for the clauses that you ask about?

A. I use the Louisiana Constitution and the United States Constitution, and I use—do you want to know the clauses that I generally use?

Q. Well, do you use books?

A. Uh huh. (Affirmative)

Q. Some of the books that are right in front of you?

A. Yes sir, I have one just like this.

Q. Do you limit the clauses that you ask about? Do you [fol. 451] ask about all of the clauses in the two books—?

A. No sir.

Q. —or do you use particular clauses?

A. I just use several particular clauses.

Q. Which clauses are they?

A. Several from the Bill of Rights; Freedom of Religion, Freedom of Speech and then others that I use a lot; qualifications for Governor, qualifications for Senator, those that I think just the average person can read and get an idea from.

Q. Now how about from the Federal Constitution?

A. Well, the first ten amendments.

Q. Do you use any provisions more than others, do you have favorites that you use?

A. I have favorite amendments. I don't use them for any particular person, if that's what you mean.

Q. No, I meant are there particular provisions you use?

A. But if you'd see my constitution, you can tell my favorite amendments there.

Q. Which ones are they?

A. Freedom of speech, freedom of religion, those that I mentioned.

Q. How did you determine that you would ask these, rather than ask others?

Mr. Kron: I think she's answered that question hasn't [fol. 452] she? Go ahead.

A. Well, it just seems to me that those are just the ones that people have heard about, whether they've been to school or not; I mean, if they've just had a minimum education, they've heard of those rights.

Q. How do you determine which of these sections you're going to ask a particular applicant?

A. It's really just hit or miss; just pick up the constitution and open to it and, I have let them pick out their own section that they want.

Q. Do you always let an applicant pick out his own section?

A. No, but if they seem to think that I've just picked a particular one, I have gone further and let them pick out another one.

Q. Do you always let them pick out a section, if they request to pick out a section?

A. I don't believe I've ever denied anybody. Too many haven't asked; I can recall a few, but I don't believe I've ever denied them the right.

Q. Then what is the applicant to do?

A. Just what he got out of the section.

Q. Does he read it; you hand him the book?

A. Uh huh. (Affirmative)

Q. Does he read it aloud?

A. He reads it to himself.

[fol. 453] Q. And then what does he do then?

A. Well, he just tells me what he got out of it.

Q. Orally?

A. Orally, yes.

Q. Is there any record made of what section he was asked to interpret?

A. If he passes the test, no. Generally, if he fails the constitutional test, I believe without exception he has already failed on the LR-1 card; but to convince myself that he's not qualified, on the back of the card I put what section of the constitution he had, but I don't put the answer he gave me, I just—

Q. That's on the back of the LR-1 card?

A. Yes, generally.

Q. Have you done this consistently since 1957?

A. Well, when I said generally, I'm not sure that on every card I've listed the section of the constitution. On some I have, but I'm not sure that I have on each one.

Examination.

By Mr. Kron:

Q. Have you done that on the majority of those who failed for that reason, would you say?

A. I haven't failed many for that reason, but I believe—

Q. On the majority of those who have—?

A. I don't believe that I've failed a one on the interpre- [fol. 454] tation test, who had the LR-1 card right. I'd really have to check my reject cards to see, but I don't think I failed a one on the constitutional test.

Q. You have a file on the reject cards?

A. Yes sir.

Q. Has the United States Government made copies of those?

A. No sir, not yet.

Examination.

By Mr. Dunbaugh:

Q. In determining that you would administer the test in this manner, has this been your own decision?

The Witness: The method that I use?

Mr. Dunbaugh: Yes.

A. Yes.

Q. And in determining whether or not an interpretation is satisfactory, are you the sole judge of that?

A. Well, yes sir, and the applicant too. The applicant usually knows whether he knows what he's read or not, and will admit that he doesn't know what's there.

Q. What is satisfactory to you?

A. "Freedom of religion"; many of them have said I can go to the church I belong to, that's satisfactory. Is that an idea of what you wanted?

Q. Yes. If an applicant, in reading one of those sections, asks you to explain a word to him, will you explain it? [fol. 455] A. I don't believe.

Mr. Dunbaugh: I think that's all.

Examination.

By Mr. Kron:

Q. Has that ever become necessary?

A. I don't believe so. I—I don't believe so. I'm really not sure of that question, I just don't recall offhand. If they asked me a word, I probably told them; I just don't recall.

Q. Did I understand you to say that you chose the favorite clauses that you use for interpretation, for the reason that you wanted to give even an unschooled and an uneducated person an opportunity and a fair chance to qualify to vote?

A. Yes sir. I mean, I don't want to put it—I don't want to ask a question on the level that is above the majority of people.

Q. And if an uneducated negro would come in, the test given to that person would be one of the simple clauses, in order to give him a fair opportunity to qualify and understand what he was talking about?

A. There is no difference in the test that I give to the whites and to the colored.

Q. I see. Did I also understand you to say that in your memory, and you have reject files to bare this out; that no person has failed to register because of failing the constitutional interpretation test, who also has not properly [fol. 456] filled out the LR-1 card?

A. I don't believe there's a single rejection.

Q. All right. So that, effectively, anyone who is able to qualify by filling out your LR-1 card, has also been able to qualify under the interpretation test?

A. Yes sir, except let me go back, because prior to when the Legislature passed the law that no illiterate could register, we could register illiterates that could give a reasonable interpretation of the constitution; and I had 16 illiterates in my parish to register by interpreting the constitution from dictation.

Now, that would make that statement untrue, and yet it is true since this registration began, because since this registration began we can't register illiterates that weren't registered prior.

Q. How many do you have on your rolls now?
A. About 3,997 I think, close to 4,000.
Q. How many are negroes?
A. About 215 negroes.
Q. Why are there not more negroes on the rolls, in your opinion?
A. They just haven't come in to register.
Q. Have there been a high percentage of negroes denied registration?
A. No sir.
Q. Do more of them who apply become registered than [fol. 457] are turned down; negroes, I mean?
A. I only—yes sir. Now, wait a minute, I'm sorry, I'm mixed up.
Q. Just using the negro applicants, as they apply are more of them accepted than are rejected?
A. Yes sir.
Q. What percentage would you say?
A. Well, I only have 24 that have been rejected since '61, for various reasons, for reasons—criminal reasons, you know, and other reasons; but 24 negroes and 14 whites have been rejected since the new registration began.

Re-examination.

By Mr. Dunbaugh:

Q. You said that you only asked about particular provisions of the constitution, that you limit your questioning to certain provisions. Have you ever published a list of those provisions?
A. No.

Re-examination.

By Mr. Kron:

Q. Is there any requirement in the law that you do publish those provisions?
A. No.

Mr. Kron: That's all.
Mr. Dunbaugh: That's all, thank you.

Witness excused.

[redacted], ET AL., APPELLANTS,

v.

[redacted].

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE [redacted] DISTRICT OF LOUISIANA

[redacted]

[redacted]

# SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1964**

## No. 67

LOUISIANA, ET AL., APPELLANTS,

*vs.*

UNITED STATES.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

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[fol. 458]

PLAINTIFF'S EXHIBIT No. 21E

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

CIVIL ACTION No. 2,548

---

UNITED STATES OF AMERICA,

Plaintiff,

versus

STATE OF LOUISIANA, ET AL,

Defendants.

---

DEPOSITION OF MRS. WINNICE P. CLEMENT, taken at instance of and on behalf of Plaintiff; on August 21, 1962, in the Caddo Parish Courthouse in Shreveport, Louisiana.

* * * * * * *

Mr. Dunbaugh: These are the depositions of certain witnesses, taken at the instance of the Plaintiff; commencing at 10:10 on the morning of August 21, 1962, pursuant to [fol. 459] notice and under the Federal Rules of Civil Procedure. Now, subsequent to the swearing of Mrs. Clement and prior to questioning her, or swearing or questioning any of the other witnesses, not yet called as a witness; Counsel for the respective parties are not able to agree as to whether or not the rules are to be invoked with respect to the other witnesses who were also subpoenaed to give their depositions. The Plaintiff's position is that it is entitled to invoke the rules, and that the witnesses who are waiting to testify shall not be present in the examining room during the testimony of the preceding witness.

The Defendants' position is that the rule does not apply, and that all persons subpoenaed have the right to be present during the taking of the deposition.

These depositions will proceed with the subsequent witnesses in the room.

[fol. 460] Mr. Kron: In the case of Mrs. Winnice P. Clement, Registrar of Voters of Webster Parish; Mrs. Clement is present but has indicated her intention to refuse to submit to the deposition, for reasons which she will, if required, state to the court, upon the order of the Court to present such reasons. For that reason, then, and making this statement for the record, Mrs. Clement will not submit to this deposition today.

Mr. Dunbaugh: Do I understand Counsel for Defendants say that Mrs. Clement refuses to be sworn; or is it that if she is sworn, she will refuse to testify.

Mr. Kron: That if she is sworn, she will refuse to testify.

Mr. Dunbaugh: Well, in that case I would like to have her sworn and let her make the refusal.

Mr. Kron: We will agree to have her sworn, and when the questions are asked, I, as Counsel for her, will then make the refusal on her behalf. Mrs. Clement will you [fol. 461] be sworn, please?

---

Mrs. Winnice P. Clement, witness called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Would you state your name, please?

A. Winnice P. Clement.

Q. What is your address?

A. Minden, Louisiana.

Q. Minden, Louisiana. Do you hold a position in Minden, Louisiana?

A. Registrar of Voters.

Q. Of Webster Parish?

A. Yes.

Q. How long have you been Registrar of Voters in Webster?

A. Since September, 1940.

Q. Did you seek the job of Registrar of Voters?

A. I applied for it.

Q. What form did the application take; did you write a letter, or did you speak with someone?

A. I just asked—told them I'd like to have the job.

Q. Who did you speak with?

A. All of the Police Jury. There were nine at that time.

Q. Did you go to a meeting and speak to them as a group?

[fol. 462] A. No, individually.

Q. You went around individually and saw them?

A. Yes.

Q. Did they interview you?

A. No, they all knew me personally.

Q. How long after that were you told that you had the job?

A. Well, it was voted on at the first meeting. They met the first Tuesday of the month, on the first Tuesday in September; then I assumed the office the 15th.

Q. Did anyone explain to you what the job was?

A. No, I just walked in, and I went by the records in there and just proceeded.

Q. How did the vacancy occur?

Mr. Kron: I object to that question. Do you know that of your own knowledge?

The Witness: Yes, Mr. McGinnis resigned.

Mr. Kron: All right.

Q. Did Mr. McGinnis or anyone else explain to you what you were supposed to do?

A. Well, he would come in now and then and tell me a few things. He told me to ask him anything I needed to know, and I would ask him at various intervals.

Q. What did he tell you about the job?

A. Well, I don't remember; just certain things that I'd ask him.

Q. Had you been registered prior to the time you took office?

[fol. 463] A. Yes, I was a registered voter.

Q. Who was it that registered you?

A. John McGinnis.

Q. What did you have to do to become registered?

A. Fill out an application form.

Q. Did you have to do anything else?

A. That's all.

Q. When did you first register?

A. I don't remember. I came to Louisiana in 1930, and I had to be here two years.

Q. Yes, probably sometime in the 1930's, is that right?

A. Yes.

Q. And you had to register every four years after that?

A. Yes.

Q. And each time that you re-registered, you did not have to do anything more than fill out the LR-1 form?

A. Well, that's all I did, I just—

Q. When and where were you born?

A. Sir?

Q. Where were you born?

A. Gloster, Mississippi.

Q. Where?

A. In Amite County, Mississippi, in the town of Gloster.

Q. When was that?

A. In 1899, August 4th.

[fol. 464] Q. How much education do you have?

A. I went through high school, and then married.

Q. What had you done prior to being Registrar of Voters?

A. Just a housewife.

Q. When you became Registrar, did you study anything to find out what you would be required to do—?

A. The registration laws of Louisiana.

Q. Did you study anything else?

A. No.

Q. What procedures did you institute when you became Registrar?

A. I did like the Registrar before had done, I let them fill out an application and gave them a certificate.

Q. So that at the time you first became Registrar, the only requirement was to fill out the LR-1 form?

A. Yes.

Q. And how long did you keep using that procedure?

Mr. Kron: Now, at this point, where the line of questioning gets into the question of the issues of the administration of the Registrar's office; the witness will now take the position that it is to refuse further to submit to the questions in this deposition; and will, if ordered, give [fol. 465] her reasons therefore to the Court, on direction of the said Court; and refuses to go further into the answers at this time.

Mr. Dunbaugh: Do I understand that no grounds are stated at this time?

Mr. Kron: Not at this time.

Mr. Dunbaugh: Would the deponent's position be the same with respect to every question that I might ask along the lines of the questions I've asked the last two witnesses?

Mr. Kron: Yes; at this point, that is her position.

Mr. Dunbaugh: Then this deposition is adjourned until such time as it may be recommenced, for one reason or another.

* * * * * * * *

Witness excused.

[fol. 466]

PLAINTIFF'S EXHIBIT No. 21E

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2,548

---

UNITED STATES OF AMERICA,

*Plaintiff,*

versus

STATE OF LOUISIANA, et al.,

*Defendants.*

---

DEPOSITION OF WINNICE J. P. CLEMENT, Registrar of Voters, Webster Parish, Louisiana; taken at instance of and on behalf of Plaintiff; on April 23, 1963, in Minden, Louisiana.

* * * * * * *

[fol. 467] Cross examination.

By Mr. Kauder:

Q. Would you state your name, address, age and occupation, please?

A. Winnice Clement, Registrar of Voters of Webster Parish, La.

Q. And your address?

A. Minden, Louisiana.

Q. And your age?

A. Let me stop and think; 64—63.

Q. Mrs. Clement, do you measure the qualifications of applicants for voter registration in Webster Parish?

A. Do I what?

Q. Do you measure qualifications, do you have to judge the qualifications of applicants for voter registration; do you have to say whether or not persons are qualified to vote, is that your job?

A. Well, by the tests they are given, I do.

Q. Yes; that is your job, is it not?

A. Yes.

Q. Now, in the course of determining whether persons are qualified to vote, have you in the last six months given the oral constitutional interpretation test?

A. Yes, I have.

Q. Have you given it to every applicant who has come to your office in the last six months?

A. Not everyone, but some I have.

[fol. 468] Q. Which ones do you give it to; or I'll put it this way: How do you decide whether or not you will give them the constitutional interpretation test?

A. How do I decide? Well, some of the elderly people, this card test confuses them, and they can interpret the constitution better, a section of it; and it's still on the book, and I asked someone if it would be all right to still do it. I didn't ask Mr. Kron, though.

Q. Well, who did you ask, Mrs. Clement?

A. I don't remember.

Q. You asked someone?

A. Yes.

Q. An attorney?

A. I don't remember, I believe so.

Q. But you don't remember who it was?

A. No.

Q. Now, Mrs. Clement, in the case of "USA -Vs- CLEMENT" which the Government has filed; in your answer to the Government's complaint in paragraph 11, through your attorney you state that in September, 1962, under mandate of the State Board of Registration you began to administer to all applicants, regardless of race or color, an objective written test for examination of citizenship; now, that's beginning September, 1962. Now, have you given every applicant for voter registration, since September, 1962, that multiple choice test?

[fol. 469] A. No, I haven't given it to everyone.

Q. In September of 1962, at that time did you start giving it to everyone?

A. Yes, I started it.

Q. And you ceased that practice?

A. Well, in those special cases.

Q. When did you first revert back to the old test?

A. I don't remember, because—

Q. You don't remember?

A. No, I don't.

Q. Well, would it have been shortly after you started the new test, would it have been last fall?

A. I just don't remember at all. We have so many in a day, and I just don't remember.

Q. Now, you said before that you saw that people got confused by the new test, and you would give them the old test because of that confusion; is that correct?

A. Well, for the elderly people, because they could interpret sections of the constitution better.

Q. Did you give the constitutional test only to elderly people?

A. Well, no.

Q. You gave it to younger people too?

A. Yes, I sure did.

Q. Now, in the last few months, Mrs. Clement, have you given the constitutional test to any persons, without first [fol. 470] permitting them to fill out an LR-1 application form?

A. No.

Q. Every person who has come into your office in the last few months has gotten to fill out the LR-1 form first?

A. No, not all of them.

Q. Some have not?

A. Yes.

Q. Now, if a person walks into the office, how do you decide whether you're going to permit them to fill out the application form first?

A. Well, I pass them the card tests, and they ask if they can interpret the constitution test; they believed they could do it better, and I let them.

Q. Now, if a person asks for the interpretation test, you give it to them?

A. Yes.

Q. What if they don't ask for it?

A. Well, sometimes I do, either way.

Q. Why sometimes do you give them the interpretation test, even if they don't ask for it?

A. Well, I just do.

Q. You just do it. Now, since, let's say, February of 1963—that's in the last two months; have you rejected any applicant because of his failure to interpret to your satisfaction?

A. I imagine I have; I don't remember any, I don't know.

[fol. 471] Q. You don't remember?

A. No.

Q. But you think you might have?

A. I imagine I have.

Q. Mrs. Clement, have you rejected any negroes in the last few months, because of their inability to interpret the constitution?

A. I imagine I have.

Q. Have you rejected any white persons because of their inability to interpret, in the last two months or so?

A. Well, I imagine I have, if I gave it to them and they failed it.

Q. Well, can you state—?

A. No, I cannot.

Q. Can you state whether you have rejected any negroes?

A. No, I don't remember.

Q. You just don't remember?

A. I mean, I just don't remember.

Q. Well, now, Mrs. Clement—

A. We have so much work in the office, I don't remember any particular one.

Q. Well, I'm not talking about a particular one, I'm talking about just anyone. Do you think that in the last few months you have rejected—?

A. I imagine, yes.

[fol. 472] Q. Both whites and negroes?

A. Yes.

Q. Would you say you've rejected more whites than negroes on the interpretation test?

A. I don't know that I have.

Q. Mrs. Clement, would your records show the names of every person who, in the last few months, has had to take the interpretation test?

A. No.

Q. So there are some persons who have had to take the test in the last few months, and your records will not show that?

A. No.

Q. Would that be because you gave them the test first—?

A. First, yes.

Q. —and they did not get to fill out the card?

A. That's right.

Q. When you give the test, Mrs. Clement—that is, the constitutional test, how do you decide what sectional portion of the constitution they will have to interpret for you?

A. I don't decide, I just open the book.

Q. At random?

A. That's right.

Q. You have no pre-selected sections?

A. No, I don't.

Q. So, any section that the book falls to would be the one [fol. 473] they would have to interpret?

A. That's right.

Q. Mrs. Clement, in the last several months, confining ourselves to that time; have you required any applicant to read and interpret as much as one full page of the constitution?

A. Well, I don't remember that, I don't usually pick them that long.

Q. Is it possible that one person could have had a full page?

A. I don't know; if the paragraph goes pretty far through the page, I might, but they don't have to memorize it or anything.

Q. I see—but it's possible they could have been required to at least read one full page?

A. Well, I don't remember that.

Q. Do you have an assistant or a deputy?

A. Yes.

Q. And what is that person's name?

A. Marcella Shaw.
Q. Marcella Shaw?
A. And Mrs. Darden.
Q. And Mrs. Darden?
A. Yes.
Q. Is Mrs. Darden a full-time deputy?
A. No, she just works two weeks each year in Springhill.
Q. And Mrs. Shaw, is she a full-time deputy?
A. Yes.
[fol. 474] Q. Does she work in Minden?
A. Yes.
Q. In your offce?
A. Yes.
Q. Have you instructed Mrs. Shaw in any way with respect to the interpretation test?
A. Yes.
Q. If you are out of the office, is Mrs. Shaw authorized to register applicants?
A. Yes.
Q. When you are out of the office, what test does she give?
A. Well, mostly the card test.
Q. Mostly or all of the time?
A. Well, all the time I guess, I don't think she asked them to interpret the constitution before we had the card test.
Q. Have you given her instructions one way or the other?
A. No.
Q. You just haven't instructed her at all?
A. No.
Q. She does work under your authority?
A. Yes.
Q. You are responsible for her work?
A. Yes.
Q. Now, I'll ask you again, Mrs. Clement: Do you give the interpretation test to every applicant who comes into the office?
[fol. 475] A. Not everyone, I—
Q. And again I'll ask you: How do you select the ones to whom you give it?
A. Well, I don't know, I just—some days I give it to—I had a negro in there the other day, he couldn't interpret the constitution, he passed the other test.

Mr. Kauder: I see. I have no further questions, Mr. Kron. Do you want to examine her yourself for "USA -Vs- LOUISIANA" now, or do you want to just continue on?

Mr. Kron: Well, no, I have no questions.

Witness excused.

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[fol. 476]

PLAINTIFF'S EXHIBIT No. 21F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2,548

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UNITED STATES OF AMERICA,
*Plaintiff,*

versus

STATE OF LOUISIANA, et al.,
*Defendants.*

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DEPOSITION OF JOSEPH W. CRAWFORD, taken at behest of and on behalf of Plaintiff herein; August 21, 1962, in Caddo Parish Courthouse, Shreveport, Louisiana.

* * * * * * *

[fol. 477] JOSEPH W. CRAWFORD, witness called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Mr. Dunbaugh: This is the deposition of Mr. Joseph W. Crawford, taken at the instance of the Plaintiff, commencing at 11:15 on the morning of August 21, 1962, pursuant to notice and under the Federal Rules of Civil Procedure. Subsequent to the swearing of Mr. Crawford, and prior to questioning him or swearing or questioning any other witnesses; Counsel for the respective parties were not able to agree as to whether or not the rules would be invoked with respect to other witnesses who were also subpoenaed to give their depositions.

The Plaintiff's position is that it is entitled to invoke the rules, and that the witnesses who are waiting to testify shall not be present in the examining room during the testimony of the preceding witnesses.

The Defendant's position is that the rule does not apply [fol. 478] and that all persons subpoenaed have the right to be present during the taking of the depositions. The deposition will proceed with the subsequent witnesses in the room.

Examination.

By Mr. Dunbaugh:

Q. State your name, please?
A. Joseph Walton Crawford.
Q. And your address, Mr. Crawford?
A. Coushatta, Louisiana.
Q. What position do you hold, sir?
A. Registrar of Voters, Red River Parish.
Q. How long have you been Registrar?
A. Since July of 1948.
Q. Did you seek the job of Registrar?
A. Yes sir.
Q. What did you do in seeking it?
A. Well, I applied for it.
Q. To whom?
A. Police Jury.
Q. And what form did that application take?
A. Well, it was no form to it, I simply applied for the job.
Q. Did you make an oral request for the job, or did you write a letter or what?
A. Oral.
[fol. 479] Q. To whom did you speak?
A. All of the Police Jury.
Q. Individually, or did you go to a meeting?
A. Individually.
Q. Did they interview you concerning the job?
A. No sir, they had known me all my life, I was born and raised in Red River Parish.

Q. How much education do you have?
A. High school and one year in college.
Q. What college did you attend?
A. Northwestern.
Q. That's at Natchitoches?
A. Yes sir.
Q. What had been your business prior to taking office as Registrar?
A. Farmer, bookkeeper.
Q. Where did you keep books?
A. In Coushatta.
Q. Some business in Coushatta?
A. Yes.
Q. What business?
A. I kept books for several of the service stations there.
Q. Were you a registered voter at the time you were appointed?
A. Yes sir.
Q. Who had registered you?
[fol. 480] A. The one prior to me was Lee Smith.
Q. What did you have to do to become registered?
A. I had to fill my application form out, LR-1.
Q. Nothing else?
A. No.
Q. When you applied for the job, did anyone explain to you what the job was about?
A. I received a book of instructions from the Secretary of State. We didn't have a Board of Registration then.
Q. What did this book contain?
A. It was pertaining to registration of voters, giving all the procedures for registering the voters.
Q. Well, was it a copy of the laws pertaining to registration?
A. Yes sir.
Q. Did it have any information along with it?
A. No sir, not that I can remember.
Q. Now, how did the vacancy occur when you became Registrar?

Mr. Kron: If you know this of your own knowledge.

A. I just don't know.

Q. Did anyone else explain to you what the job was about?

A. The Registrar of Voters that went out did, yes sir.

Q. Mr. Smith?

A. Yes sir.

Q. What did he tell you?

A. He gave me a general idea of working principles of the office.

[fol. 481] Q. What did he say?

A. It's hard to remember now.

Q. Well, I mean what did he say with regard to what your duties were and procedures to follow?

A. He showed me principally the main working principles of the office, and then it's up to a man, after he gets in there, to learn from experience and find out what he can do and what he can't do.

Q. Did anyone else explain anything to you about the job?

A. Well, I talked to the District Attorney, the District Judge and a couple of lawyers, getting the particulars of the office and laws.

Q. And what did they tell you?

A. Well, they gave me all the information and knowledge that they knew concerning it.

Q. Well, what procedures did you institute, then, at that time?

A. At that time we only had the LR-1 card to fill out.

Q. An applicant at that time merely had to fill out that card, is that right?

A. Yes.

Q. And what if they couldn't fill out that card?

The Witness: You mean on the illiterate clauses?

Mr. Dunbaugh: Yes.

A. They had to have two witnesses to witness that they could not read and write.

[fol. 482] Q. Did anyone who desired to register get turned away?

A. No sir.

Q. They could all register one way or the other, either by filling out the card or by registering as an illiterate?

A. Yes, at that time.

Q. Now, you said the prior Registrar, the District Attorney and District Judge explained th job to you, and that you got a pamphlet from the Secre of State?

A. Yes.

Q. Did you read the pamphlet over?

A. Several times.

Q. Did you read anything else?

A. I have read a lot of the rules, reports and opinions from the Attorney General concerning registering.

Q. Do you have any deputies?

A. No sir.

Q. Have you ever had any?

A. No sir.

Q. Now, since you first took office have you changed your procedures in any way?

A. Yes, we have changed them.

Q. When did you first change them?

A. I would say about 1956.

Q. What were the changes that you made then?

A. Changes were made to follow the letter of the law, [fol. 483] what the letter of the law called for.

Q. Why did you affect the changes?

A. I was authorized by the Police Jury of my parish.

Q. What form did that take?

A. Through a letter, a resolution passed in regular session.

Q. What did it say?

A. If you boil it down, it said the laws for registering voters were slack, that we should comply with the law and the Constitution of the State of Louisiana, and to administer the laws impartially.

Q. And what did you understand that to mean?

A. For me to go to the letter of the law, to tighten up on the registration laws on everyone.

Q. In what way?

A. By bringing in the constitutional test and filling out the LR-1 card correctly.

Q. Did you feel you had not then been complying with the law correctly?

A. We were all a little loose with it, yes sir.

Q. Why is it you had not given the interpretation test prior to that time?

A. I had never heard anyone else doing it.

Q. But you understood this resolution of the Police Jury to mean that you should start giving the interpretation test?

A. Yes sir.

[fol. 484] Q. Did they give you any instructions as to how you were to give it?

A. No sir.

Q. How did you give it?

A. Orally.

Q. What source did you use?

A. The Louisiana Constitution.

Q. A book similar to this one?

A. It's like it, yes sir.

Mr. Dunbaugh: For the record, the book I have shown Mr. Crawford is the Constitution of the State of Louisiana, as amended through election of November 2, 1954.

Q. You say it was a book similar to this one, but not the same as this one?

A. That's right.

Q. When did that start, when did you start using that?

A. I would say in 1956, somewhere along in there.

Q. Have you ever used anything else?

A. No.

(Colloquy of Counsel)

Q. I show you, Mr. Crawford, these several cards; have you ever seen any cards similar to these?

A. Yes sir.

Q. Have you ever used any cards similar to that in [fol. 485] administering the tests?

A. We used them for a while, yes sir.

Q. Well, when did you use those cards?

A. It must have been along in '57 or '58, somewhere along in there.

Q. Was that before or after you started using the book?

A. That was after we started using it.

Q. So that when you first started to give the test, you used the book?

A. Yes sir.
Q. Then you used a card later on?
A. Yes sir.
Q. Do you use the cards presently?
A. No.
Q. Well, what do you use now?
A. The book.
Q. The Louisiana Constitution?
A. Yes sir.
Q. So that you went from the Louisiana Constitution to the cards, then back to the Louisiana Constitution?
A. That's right.
Q. All right. Now, when you first started using the Louisiana Constitution, where did you get it, where did you get a copy of it from?
A. From—I went to a lawyer's office and got it.
[fol. 486] Q. In other words, after you decided what the Police Jury wanted you to do, which was to give the interpretation test, you went and acquired a copy of it?
A. I acquired a copy of the Constitution of the State of Louisiana.
Q. Did the lawyer give you this out of his own library?
A. Yes sir.
Q. How long did you use this?
A. I still use it.
Q. I mean how long before you started using the cards?
A. I don't know exactly, it couldn't have been long.
Q. A few months?
A. A few months, yes sir.
Q. Was this before or after the—well, let me establish first; did certain citizens purge the rolls in Red River Parish?
A. Yes sir.
Q. When did that take place?
A. The latter part of '56 I believe.
Q. Now, did you start the test before or after that?
A. I just couldn't tell you that.
Q. About the same time?
A. Just about the same time, I imagine.
Q. Now, when you first changed your procedure so that you started to give the test, what was your procedure

at that time? When an applicant first came in, what was [fol. 487] the first thing the applicant had to do?

A. Before I'd give the test?

Q. No. As I understand it, before you started giving the test, I believe you said that you simply gave him an application card and he filled it out?

A. The LR-1.

Q. Then after you started using the Louisiana Constitution, when you started using it for the first time, what was an applicant required to do then?

A. First he fills out his LR-1 card; if it is correct, then I give them a section of the constitution to interpret.

Q. Are you talking about now, or are you talking about when you first started using the test?

A. Then and now too.

Q. If they failed to fill out the card satisfactorily, what then—

A. It wasn't no use in giving the test.

Q. So he went no further?

A. We went no further.

Q. When you gave them the test, what did you do?

A. I let them read themselves and tell me what it means.

Q. How was it determined what they would read?

A. By me flipping to a section of the constitution.

Q. How did you pick out the section for him to read?

A. Just opened the book. I never tried to give them [fol. 488] anything hard to interpret. Most of the constitutional interpretation has been from the white people. The negroes that I have registered, they have satisfied me on the constitution. The majority of the others that have come in there have never gotten to the interpretation test, because they either can't read or write; but I have had some who would probably just look at it, and probably he would give me an answer for some other section.

Maybe I asked him on—say on the religious freedom clause—I believe it's Article 1, Section 4; if he could give me some kind of idea that he knows—could make me believe he knows simply what it means, well I'll accept that; but if he comes up and says "a search warrant is needed", or something like that, something he has been taught probably in school and got it all mixed up and put it in the

wrong place, I can't accept that; but if he can make me know that he understands and knows something about the workings of that section and what it means, that's all I need.

Q. Well, let me go back for just a little bit. After you were first given the Police Jury resolution, you stated that you understood that to mean that you were to start giving the interpretation tests?

Mr. Kron: Among other things.

A. Among other things, yes.

Q. All right. Now, did you inquire of any of the Police [fol. 489] Jurors as to precisely what they meant as to—first of all, that they meant you should give the test?

A. No, it specified in there.

Q. It specified definitely to give the constitutional test?

A. Well, no, it didn't specify that, it just said to follow all of the registration laws.

Q. Did any of the Police Jurors tell you that that was what they meant?

A. No sir.

Q. But you determined that that's what they meant, you decided that yourself?

A. Yes sir.

Q. Did you ask anybody or did anybody give you any information about how the test was to be given?

A. No sir.

Q. Did you discuss it with anybody, as to how you were going to start giving the test?

A. No, not particularly.

Q. You went to a lawyer and asked him for a book; when he gave you the book, did you discuss with him how the test should be given?

A. No sir.

Q. Had you ever studied the Louisiana Constitution prior to that time?

A. A little bit, yes sir.

[fol. 490] Q. Now, when you got the copy of the constitution from this attorney, did you read it over?

A. That's correct.

Q. Did you read it in its entirety?

A. Between now and then I have.

Q. But not right away?

A. Well, I'll guarantee you, between the Federal Government and the Board of Registration, they've made pretty good constitutional lawyers out of most Registrars of Voters.

Q. Well, when you first read it over, I take it you did read parts of it over prior to giving the test to anybody?

A. Yes sir.

Q. Did you determine then that there were some sections you would ask about and some sections you would not ask about?

A. Well, no sir, I didn't determine that. You always have to ask something that you can answer yourself, you know.

Q. Well, that's right. When you read it over, did you understand the whole constitution?

A. Yes sir—no, I didn't; it's no use me saying that, I didn't.

Q. So, is it true that when you asked applicants to interpret provisions of the constitution, you chose provisions that you yourself understood?

A. Yes sir.

Q. But that would not be all of the provisions in the constitution?

[fol. 491] A. No sir.

Q. Do you know which ones you picked out? Mrs. Culpepper was pretty definite in that respect, the ones she used, and—

A. I know two of the ones that I use principally; one of them is Article 8, Section 17 of the Louisiana Constitution—I believe I'm right.

Q. All right. What other articles have you asked about?

A. Article 1, Section 4 of the Louisiana Constitution.

Q. Any others?

A. Those are principally the main ones that I use.

Q. Do you ever ask about any others in addition to those?

A. No sir, these are the ones that I ask about.

Q. Only those?

A. Well, sometimes I get off on another one, just to break the monotony, but I couldn't tell you which one it was.

Q. How did you happen to pick those two?

A. Well, I tried to pick something pretty easy for a common man to tell me what it meant.

Q. Have you limited it pretty much to these two, with some exceptions as you say?

A. Yes sir.

Q. Always?

A. Yes sir.

Q. Except during the time you were using the cards?

A. Yes sir. Some of those cards are pretty hard.

[fol. 492] Q. Now, when an applicant reaches this stage of the registration, you take out the book and turn to one of those sections?

A. Yes sir.

Q. And what do you have the applicant do?

A. To read it.

Q. Out loud?

A. Well, he can if he wants to.

Q. Not necessarily, though, I take it?

A. No. He usually reads it himself, and he'll tell me in his own words, give me some way of knowing that he knows what he is reading.

Q. If there is a word in there that the applicant says he does not understand, will you explain the word to him, or try to explain it?

A. Well, I've never had one to ask me to, but I reckon I would.

Q. Is there any record kept of what provision you ask them to interpret?

A. No sir.

Q. Is there any record kept of the answer he gives?

A. No sir.

Q. At the time when illiterates were permitted to register, would you advise them as to what sections you wanted them to interpret, or did you require them to interpret it?

A. They were given the same test that you would have been given.

Q. Now, as I understand it, what we have been talking [fol. 493] about here with regard to tests, is the test that you first gave and the test that you now give, prior to and after the time you started to use the cards? You said, I

believe, that you used the Louisiana Constitution for several months, then you started to use the cards?

A. Yes sir.

Q. How long did you use the cards?

A. I would say about 3 or 4 months.

Q. And then you went back to the Louisiana Constitution?

A. Back to the Louisiana Constitution.

Q. And your procedure has been the same ever since?

A. Yes sir.

Q. With respect to the constitution, I mean?

A. Yes sir.

Q. During all of that time, has it always been that they would fill out the application card first?

A. First always, yes sir.

Q. Now, when you gave them cards—well, how many cards did you have?

A. Seems like it was about 12, the best I can remember.

Q. What did the applicant have to do with the card?

A. There were three questions on it, and he had to write his answer on the card.

Q. So that you had to have a fresh card for each applicant, then?

A. Yes sir.

[fol. 494] Q. Did you have the cards printed up, then, at the Police Jury's expense?

A. Yes sir.

Q. Where did you originally get the cards?

A. I don't know where it come from, to tell you the truth.

Q. How did you decide to start using the cards, rather than the book?

A. The Police Jury got them from some place; I don't know where they came from, they could have made them up.

Q. The Police Jury gave you these cards?

A. They could have made them up, yes sir.

Q. Well, what was your first contact with the cards, were you given a set and you sent them out to have copies made, or did you get a whole batch of them at one time?

A. They were made by M. L. Bath here in Shreveport.

Q. At your request?

A. At the Police Jury's request.

Q. Did anyone discuss with you the cards?

A. I don't think so.

Q. How did they come into your possession?

A. I knew that they were going to get cards, but, now, they didn't discuss them with me in any way.

Q. How did you know they were going to get cards?

A. Well, they told me they were.

Q. Who told you?

[fol. 495] A. The Police Jury.

Q. One particular member?

A. No, it was eight of them.

Q. At a meeting?

A. Yes sir.

Q. What was said about the cards at that time?

A. Well, there was nothing much said about them at all, only that they were going to—they figured it would be more sensible than taking the book. I would just have the cards and would let them write their own answers down to the section on the card.

Q. Were you invited to the Police Jury meeting to discuss this with them?

A. No sir.

Q. How did it happen to come up; where was this meeting?

A. It was a regular meeting.

Q. How did you happen to be there?

A. Well, I was in the courthouse.

Q. Do you recall how the cards first came into your possession?

A. No sir.

Q. Did anybody tell you what to do with them?

A. Well, a first grader could have looked and told what to do with them; it was just 3 questions on the card there and a blank space under each question, and you just write in the answer to it, it's simple.

[fol. 496] Q. Did you decide the cards should be used, and render a request for them?

A. No sir.

Q. Were you told to use the cards, instructed to use the cards?

A. Yes sir.

Q. By the Police Jury?

A. Yes sir.

Q. All right. When you started using the cards, how did you select which card the applicant would interpret?

A. It didn't make any difference hardly which one you selected, they were all jumbled up; probably one question was on a half-a-dozen cards, they were just mixed up.

Q. At the time you were using the cards, how did you determine which card an applicant would be asked about?

A. I just reached and grabbed a card, any of them, because a lot of them had the same questions on each card.

Q. Did you have more than one copy of each card?

A. Yes sir.

Q. How many copies of each card did you have?

A. Well, they come 100 to the bunch.

Q. You had 100 of each type of card?

A. Yes, at least a hundred, I don't know how many exactly.

Q. Were they bundled by cards, or were they bundled by sets of cards?

A. Each set of cards—there were about 12 cards, I be- [fol. 497] lieve, to the best of my knowledge, and they came 100 to a bunch.

Q. So there would be 100 No. 1 cards, 100 of No. 2 cards, 100 No. 3 cards, each in a different bundle?

A. Yes sir.

Q. Did you keep them that way in a drawer or somewhere?

A. Oh, yes.

Q. So, when you selected a card, you knew which number you were selecting?

A. They were numbered.

Q. What I'm getting at, Mr. Crawford, is that they weren't just a big bundle of all jumbled up cards—

A. No.

Q. —and you just reached in and pulled one out of the hat?

A. No, they were all in a separate package.

Q. So, when you picked out a card for an applicant, you knew he was getting No. 3 or No. 4 or No. 5, whatever it was?

A. That's right.

Q. Did you limit yourself to particular cards, or did you use all of them?

A. I used all of them.

Q. Did you have any particular ones that you used more than the others?

A. I tried to give the easy ones. That's one reason we went back to the book, because the cards caused too much confusion among both races, and it was trouble for a white [fol. 498] man to come in and fill some of the cards out, much less a colored man.

Q. Well, were some of the cards easier than other cards?

A. Well, yes sir, I reckon they was.

Q. And you tried to pick out an easy one?

A. Although some hard cards had some easy questions on them, we'll put it that way.

Q. You said, though, that you tried to pick out an easy one?

A. Yes sir.

Q. How did you determine when you were going to pick out the easy one and when you were not going to pick out an easy one?

A. Well, just look at it.

Q. Huh?

A. You can look at it.

Q. Well, I know, but I mean you say you usually tried to pick out the easy ones, so apparently sometimes you did not pick out an easy one?

A. Well, this Attorney Anderson, I give him one that—I don't remember what I give him.

The Witness: I believe you qualified on a card?

Mr. Anderson: I did.

The Witness: You sure did.

Q. You gave him a harder card than you ordinarily gave?

A. I imagine I gave him a pretty hard card.

Q. Why did you give him a harder card than you would someone else?

[fol. 499] A. Well, I figured he was capable of answering it.

Q. So that you would select a card that you thought the particular applicant would be capable of answering?

A. That's right.

Mr. Kron: May I conclude from that that negroes were given an easy card?

A. I gave them a fairly easy card, yes sir. We have turned to permanent registration since then, since January of 1961.

Q. Well, while we're on that subject, when you turned to permanent registration, did you blanket in everybody who had registered since January 1, 1957?

A. Yes sir.

Q. So that if someone had registered since January 1, 1957, he has not had to reregister since that time?

A. That's correct.

Q. Now, once an applicant had the card, you said he was to write the answer on the card?

A. Yes sir.

Q. Was he to answer all three questions?

A. All three questions, yes sir.

Q. Did he have to have all three questions answered correctly?

A. Yes sir.

Q. If he did not have all three answered correctly, would he fail?

A. Yes sir.

[fol. 500] Q. Did the person have a chance to fill out a second card—

A. Yes sir.

Q. —of the same card?

A. Yes sir.

Q. How many chances did he get?

A. I've given some of them as much as three in one day.

Q. And if they failed after three, then would they get another chance?

A. Not that day, no sir.

Q. When can they come back?

A. Well, I wouldn't tell them, because actually I don't believe it specifies in the law, I'd just tell them they would have to come back some other time. Actually there hasn't

been but two colored persons in my office to apply for registration since July of 1961.

Q. All right. Now, this business of giving them three chances, that applied when you had these cards; does it still apply?

A. It would, yes sir.

Q. You would give them three chances on the book, as well as on the cards?

A. Yes sir.

Q. Now, at the time you were giving them the cards, there had to be a record of the questions asked and the answers given, isn't that correct?

The Witness: On the cards?

[fol. 501] Mr. Dunbaugh: On the cards.

A. Yes sir.

Q. But no records for the period prior to that or the period after that?

A. No sir.

Q. What are you testing when you give them the interpretation test?

A. What do I test them for?

Q. What are you testing, what qualification are you seeking to determine?

A. I'm seeing if they have enough knowledge to tell me what they are reading, or what it's all about; to see if they have the knowledge to vote, to vote sensibly. Some people can memorize something like that and still not be able to know what it's all about, to even vote.

Q. Well, why did you give up the cards and go back to the book?

A. As I said a while ago, it was working too much hardship on both races.

Q. There were a lot of people who couldn't answer the cards?

A. Not directly.

Q. Did you have to reject a lot of people?

A. Yes sir.

Q. Since the Police Jury had told you to start using the cards, or at least—is that correct, that the Police Jury instructed you?

[fol. 502] A. Yes sir.

Q. Did they instruct you to stop using the cards?

A. Yes sir.

Q. When did they do that—or how did they do it, let's put it that way?

A. Well, there was no written agreement on stopping use of the cards, it was just an oral conversation.

Q. With whom?

A. With the Police Jury.

Q. Some particular members of it, or all of them?

A. Well, you would have to say all of them as a body.

Q. Was it a regular meeting that you attended?

A. No sir, I didn't attend the meeting.

Q. Well, how did they advise you to stop using the cards?

A. Well, they told me, told me it would be best for both races if I discontinued use of the cards.

Q. Did someone come to your office and tell you?

A. I don't know, that's been so long ago.

Q. What was said?

A. Well, just as we said, that it was working too much hardship on the people of the parish; we believed we could get along better by just using the book, that it would be less complicated, and we would still be fulfilling the law.

Q. Did someone say that too many people had failed?

A. No sir.

[fol. 503] Q. Since you've gone back to the book now, do most people pass?

A. Yes sir, those that can fill out a card usually pass, sure do.

Q. Does anyone ever fail on the test?

A. Not within the last year, I'll say.

Q. How many people have applied within the last year?

A. The last year; not too many. With permanent registration you don't have the rush that you once had under the old type registration, that knocks all that out. See, you have the book with people already registered. It's usually those who have become 21 or those who have moved in, something like that.

Q. Would you say 500 people have registered in the last year?

A. No sir.

Q. How many would you say?

A. I'd say about 200.

Q. About 200 have registered in the last year?

A. Yes sir, less than that.

Q. And none of those people have failed to interpret the constitution to your satisfaction?

A. No sir.

Q. How about in the year before that?

A. Well, we turned to permanent registration then, they were blanketed in on permanent registration.

Q. But during the time you were using the book after you gave up the cards—

[fol. 504] A. I turned down a lot, yes sir, sure have.

Q. On the book?

A. Yes sir.

Q. What would you turn them down for?

A. For probably giving me the—as I said a while ago, giving me an answer for another section and it not be the section I asked them.

Q. I show you Article 1, Section 4, which you said you used; would you read that, please?

A. "Freedom of religion. Every person has the natural right to worship God according to the dictates of his own conscience. No law shall be passed with respect to establishing religion, nor prohibiting the free exercise thereof; nor shall any preference ever be given to or any discrimination made against any church, sect or creed or religion or any form of religious faith or worship."

Q. All right. Now, what answer do you require there?

A. I would require that a man tell me that no law shall be passed favoring any one church or setting any one church up, and that no discrimination shall be made against any religion. That's enough; if he'll tell me that, well that's as far as I'd want him to go.

Q. Suppose he read that and simply said "freedom of religion"?

A. Well, actually that's what it is, freedom of religion.

Q. Would he pass the test?

[fol. 505] A. Yes sir.

Q. I didn't get your answer?

A. Yes sir—but if he comes and gives me an answer to that by saying "a search warrant" or something like that

is necessary; well I know that he don't know what he was reading, and I've had some of them to give me that answer.

Q. So you're testing really whether or not he can read?

A. No, I'm testing whether he has enough knowledge to know what he has read, that's what I'm testing. I know he can read and write or he never could have filled out the card.

Q. Now, you said that ordinarily you only ask about two sections, that section and Section 17 of Article 8?

A. Yes sir.

Q. What percentage of time would you say you ask those two?

A. Pretty well all the time.

Q. Have you ever made it known that those are the only two sections you're going to ask?

A. No sir.

Q. Do you ever ask any other sections?

A. Very seldom.

Q. How do you decide to ask another section?

A. How do I decide?

Q. How do you decide to ask another section?

A. Well, I just flip through there and find me one.

Q. Well, I mean, when an applicant comes up, what makes [fol. 506] you decide that you're not going to ask him one of these two sections, that you're going to ask him a different section?

A. I can tell by how long it takes him to fill out his card.

Q. What do you tell by that?

A. Well, he's pretty apt if he can fill his card out in about a minute or a minute-and-a-half.

Q. If he's good then you'll give him another section?

A. If he's good, I'll just flip—I'll give him that same section there.

Q. I'm sorry, I don't quite understand you; would you repeat that?

A. If he's that good, I'll give him that same section just to get through with him; in other words, I know he's qualified by the length of time it takes him to fill his card out.

Q. If he has a difficult time filling out his card—

A. Well, I'll still give him that section.

Q. Well, when do you give them the other sections?

A. Actually I'd say that I give that question—I'd say 99% of the time.

Q. Do you give one of these more than the other?

A. No sir.

Q. Just about the same?

A. Just about the same. My registration is very, very light since we turned to permanent registration, and some days I don't register anyone; in other words, sometimes I [fol. 507] couldn't ever remember what question I asked last, so I couldn't say that I'm partial to any one question.

Q. Well, in the very rare instance when you ask them to interpret a different section, what causes you to ask them a different question?

Mr. Kron: The witness has already answered that.

The Witness: I've answered it, yes.

Mr. Dunbaugh: No—

A. I just said it was to break the monotony once in a while, that's all.

Q. There is nothing about the applicant or the applicant's performance on the application card that makes you decide to ask another section?

A. No.

Q. It's just how you happen to feel that day?

A. No.

Q. Huh?

A. No, I wouldn't say that. Actually, if a man can tell me in his own words, and I know that he knows what he has read, I'm proud to see him register. In other words, I'm not trying to keep anyone from registering.

As far as the colored, as I've said I've only had two in there in the last year. Of course, neither one of them got to the constitutional test, and I'll tell you the reason why, because it's so few colored that come in to apply for registration.

[fol. 508] They were told that they had to register, in other words, to stay on the welfare rolls; well they were breaking their necks to get in there to register—and even that they had a picture in the voting machine, that if they didn't vote right that they would take a picture of them and see, and that they would knock them off.

Well, I've had numerous colored people ask me that, would they be taken off if they didn't register; I said, "You certainly won't," and so—

Mr. Anderson: What did they do then?

A. —consequently they just dropped the thing, they forgot it, didn't care anything about it.

Q. Do you follow these procedures that you've discussed here at all times; do you ever register out in the precincts, in other words?

A. No sir.

Q. When you have a last minute rush, before an election, to register, do you still follow the same procedure?

A. Yes sir, but we don't have any rushes now.

Q. Have you ever received any suggestion or instruction from anybody as to how to work this test, other than those you've already told us about?

A. No sir, none whatsoever.

Q. Have you received anything recently from the State Board of Registration?

[fol. 509] A. Only a set of registration forms, which I haven't had printed yet.

Q. Has anyone come in to speak to you about registration policies in the past?

A. No sir.

Q. Has anyone inspected your voter registration records, other than the Federal Government?

A. The Federal Government.

Q. How about in 1956?

A. No sir.

Q. At the time that the rolls were purged in Red River Parish, did somebody come in then?

A. Well, the Citizens Council.

Q. And what did they say?

A. Well, they didn't say anything, only that they was going to purge the rolls.

Q. Did they comment at all on your policies?

A. No sir.

Q. How many people did they purge off of the rolls?

A. I think about 800, something like that.

Q. And what, were they mostly negroes, or what?

A. The majority were negroes; it was some whites mixed in with them.

Q. About how many whites?

A. I'd say 25 or 30.

[fol. 510] Q. Has anyone from the Sovereignty Commission come around and talked to you about your registration policies?

A. No sir.

Q. How about the Joint Legislative Committee?

A. No sir.

Q. Has anyone from the Citizens Council talked to you about registration since 1956?

A. No sir.

Q. When they came in in 1956, did they tell you why they were purging these pepole off of the rolls?

Mr. Kron: I object to that, I don't think that has any part—or it has no issue in this proceeding whatsoever. The issue here is the constitutionality of the interpretation test, and not what the Citizens Council did or said in 1956; and I'm going to instruct my client not to answer that.

Q. In setting up the procedures for using the test—in other words, the way it would be given and what would be a satisfactory answer—has this been your own decision?

A. Yes sir.

Q. The method of giving the test is your own method that you devised?

A. Yes sir.

[fol. 511] Q. And what constitutes a satisfactory answer is your own—

A. My own satisfaction.

Q. No one has given you any guide-line to go by?

A. No sir, none whatsoever.

Mr. Dunbaugh: Thank you, Mr. Crawford, that's all. Do you wish to examine the witness at this time, Mr. Kron?

Mr. Kron: Only one question to clarify one point here.

Examination.

By Mr. Kron:

Q. Mr. Crawford, you stated that the method and the design of the test is of your own doing, that you give it like you think it should be given. Now, am I clear that in no case in the past, now or will you require a highly technical interpretation of any section of the constitution that you submit?

A. No sir, I don't.

Q. That you are looking for simple portions of the constitution to be interpreted, and looking for simple explanations thereof; primarily for the purpose of knowing whether or not a man can understand what he reads, and not necessarily a technical aspect of that interpretation; is that correct?

A. That's correct.

Mr. Kron: That's all I have.

[fol. 512] Mr. Dunbaugh: I have just a few more question, Mr. Crawford.

Re-examination.

By Mr. Dunbaugh:

Q. Since the State Board's letter of January 16, 1961—are you familiar with the letter I'm referring to?

A. No sir, I 'm not.

Q. There is a letter dated January 16, 1961, that the State Board of Registration sent out with suggested procedures; did you receive such a letter?

A. Yes sir, it seems like I did.

Q. Since that time have you had an oath card that you've added to your other records?

A. Yes sir.

Q. And since that time have you required applicants to read the preamble and write the preamble of the constitution?

A. No sir.

Q. You have not?

A. No sir. I require them to sign the oath, though.

Q. So that the present procedure is that they sign the oath card, they fill out the card, the application form—

A. LR-1.

Q. —and then take the interpretation test?

A. It's necessary, yes sir.

Q. There are not others?

[fol. 513] A. No other strings attached, that's it. In other words, I can determine whether a fellow can read and write while he is filling his LR-1 out; putting the necessary questions that's asked on the bottom of the card.

Mr. Kron: And whether he can understand what he reads, by the interpretation test?

A. Yes sir.

By Mr. Dunbaugh:

Q. Do you think you can tell whether or not he understands what he reads, if he is able to fill out the LR-1?

A. You pretty well can by the looks of his card, yes sir.

Mr. Dunbaugh: I have no further questions.

Mr. Kron: That's all, Mr. Crawford, thank you.

Witness excused.

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[fol. 514] PLAINTIFF'S EXHIBIT No. 21G

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Quitman Crouch, witness in the Federal Court Action, taken at the instance of plaintiff in the Fed-

eral Court Action, taken in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana, commencing at 10:30 o'clock A.M., on the 25th day of August, 1962.

Appearances:

Frank M. Dunbaugh, III, Esq., Department of Justice, Washington 25, D. C., for Plaintiff.

Harry J. Kron, Jr., Esq., Assistant Attorney General, For the State of Louisiana, Capitol Building, Baton Rouge, Louisiana, for Defendants.

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[fol. 516] The Witness, QUITMAN CROUCH, After Having First Been Duly Sworn to Tell the Truth, the Whole Truth, and Nothing But the Truth, So Help Him God, Testified as Follows:

By Mr. Dunbaugh:

Q. What is your name and address?
A. Quitman Crouch, Montpelier, Louisiana.
Q. You are the Registrar of Voters of St. Helena Parish?
A. That's right.
Q. How long have you been registrar?
A. Since June of '59.
Q. Did you seek the job?
A. Well, I just was in between other jobs and I just happened to be there, and I needed work, so I taken the job.
Q. Did you apply for it by letter or orally, or—
A. Orally.
Q. Were you interviewed by anybody?
A. Police jury.
Q. What did they ask you?
A. Well, they asked me my qualifications as far as my schooling, ability to type—you know, use a typewriter, and my age, you know, and all such as that.
Q. Did anyone explain what the job would be?
A. Well, in what way do you mean, now?
Q. Well, what your duties would be?

A. Well, I mean, I had heard as local talk of what it would be, so the first thing I did, was to come to see Mr. [fol. 517] Douglas Fowler who was Director of the Board of Registration at the time, and talk to him, and he gave me the manual, the registrar's manual, and advised me to study it which I did.

Q. What does this manual consist of?

A. Well, it's just the laws that the registrars are required to go by.

Q. It simply has the Louisiana registration laws in it?

A. That's right.

Q. With no explanation of them?

A. Well, I mean, it's—in other words, you can run the office by it step by step. It's plain enough that you can get a good picture of what's to be done.

Q. Is this a white pamphlet put out by the Secretary of State—

A. That's right.

Q. —containing the registration laws—

A. That's right.

Q. —of the State of Louisiana?

A. That's right.

Q. Did Mr. Fowler tell you anything in addition to just giving you this booklet?

A. Well, his only advice to me was to study this pamphlet and run it the best of my ability, as fair as I possibly could which I taken an oath to do it.

Q. How old are you?

A. 28.

[fol. 518] Q. What education do you have?

A. High school.

Q. Were you a registered voter at the time you became registrar?

A. Yes, sir.

Q. Who registered you?

A. Mr. Nesom.

Q. What did you have to do to become registered?

A. Fill out the application card.

Q. Did you have to do anything else?

A. No, sir.

Q. After you became Registrar of Voters, what procedures did you adopt?

A. Well, you mean, the routine of the office?

Q. The routine of the registration procedure?

A. Well, I started—the manual requires for a person to be able to interpret a section of the Constitution, so I—there happened to be a section of the Constitution in the office, so I started with those, required them to read a certain section of the Constitution, and fill out the application on their own, without assistance from anyone.

Q. Was this the first time that the interpretation tests had been used in St. Helena Parish?

A. To my knowledge it was.

Q. Was it your own decision to start using it?

A. Well, it was a decision I arrived from by reading the [fol. 519] pamphlet. In other words, it was required by law.

Q. Did anyone suggest to you that you start using it?

A. Well, I've had—I had several suggestions about—like I told you, Mr. Fowler told me to run it according to the state law.

Q. Did anyone explain what that meant?

A. No, not—not directly, I don't guess you'd say.

Q. Did anyone tell you that you should start using the interpretation test?

A. Well, I can't—I don't get just what you mean by anyone telling me.

Q. Or suggest to you, let's say.

A. Well, I mean, it was like just general knowledge that most of my friends suggested to me to run it according to the law to stay out of trouble, because—in fact, when I taken the job, I didn't realize it was going to run into the complications it did. So after—I seen quick that I'd better brush up on the manual.

Q. You said that there was a copy of the Constitution in the office. Is that a Federal Constitution or a State Constitution?

A. It's a State—Louisiana State Constitution, amended through 1954, I believe and just like this one, yes, sir.

Q. Would you refer to that, please, and tell me where—did you pick out particular sections that you would ask about, or—

A. Yes, uh huh.

[fol. 520] Q. —did you ask about all of the sections?

A. Well, I mean, I picked out—I went through it and picked out some of the shorter, more simple ones that I figured the average person would be more apt to interpret, because I realized that most of them were like me, they're not lawyers, attorneys, whatever. It would be a hardship on them to have to get some long well-worded section.

Q. About how many provisions did you pick out as the ones you would use?

A. Well, I started off on the—most of it right here in the front on the Bill of Rights, then I picked on up some more shorter ones on over in it.

Q. When an applicant is asked to interpret, just how is this done?

A. Well, I just open the book and tell him to read this section and give me a reasonable interpretation of it.

Q. Is he to read it aloud to you?

A. Well, it's up to them.

Q. Does he give an oral interpretation?

A. Oral interpretation, that's right.

Q. Is any record made of the section that he's asked to interpret?

A. I make a notation on the little oath card that they are required to sign by the state laws, the section, the date that they're born, the date they were in the office, the section—the article and the section that they are required [fol. 521] to read and interpret. And I make a notation by it—if they give a reasonable interpretation, I put the O.K., if they fail, I put fail.

Q. Did you do that before you started using the oath cards?

A. No, sir, I didn't.

Q. When did you start using the oath cards?

A. Starting this permanent period during '61.

Q. Have you done it consistently during this period?

A. Uh huh.

Q. Is there any record made of the answer, or the interpretation given by the voter?

A. I have, oh, possibly 5 or 6 that I have a written record of it.

Q. Are those people who have passed, or people who have failed?

A. Some of them have passed, and some of them have failed. I mean, if they requested to make a notation of it, to write it, I just let them write it right on the oath card, right on the bottom.

Q. In deciding that you would use certain provisions and not other provisions, did you consult with anyone?

A. No, sir.

Q. Or get the advice from anyone?

A. No, sir.

Q. Those are your own selections?

A. They are my selections.

[fol. 522] Q. Could you tell us which sections you used?

A. I could pick out some of them. I wouldn't say I could pick them all out, like say start off here with Article I in the Bill of Rights running through one through seven.

Q. Article I, Sections one through seven?

A. Through seven. Then, let's see, over here on Article III, Section 31 and 37.

Q. Are there any others that you—

A. Oh, yes, uh huh.

Q. —can pick out?

A. This Article XIX of Section 3.

Q. That's Article III, Section 19?

A. Uh huh, yes, sir.

Q. Would you read the title just so that it will be clear?

A. Quorum; adjournments from day to day; compulsory attendance—that's Article III, Section 19. In the Constitution I had, I had it marked, you know, just—it seems strange handling a new one. Here's Article VI of Section 19, Performance of duties until successor inducted. We use that one quite a bit—oh, and Article III of Section 19—Treason.

Q. Wait a minute. That's Article XIX, Section 3 of Treason?

A. It's one more that I can't quite remember where the —it was the qualifications of the justice of the peace, is what it really was. It was in Section 47, but I can't turn [fol. 523] right off to it. It's Article VII, Section 47, and I believe that's about most of them offhand.

Q. When you first started out, you didn't use all of these?

A. No, sir, the first year or so I was in the office I just stuck with the Bill of Rights.

Q. Since then you have gradually added on to it?

A. Gradually added on it, and I'll tell you the reason for that is because the pages—you can imagine with people coming in with dirt on their hands, some of them coming from work, that the pages just completely got to where you couldn't read it at all. That's one reason I had to seek further in the book.

Q. When an applicant comes in, how do you determine which of those sections you will ask him?

A. I just flip to one and then just note—like I say I have cards in them. I just reach and pick up the book and hand them one.

Q. Are some of those provisions harder than others?

A. Well, I wouldn't think so. I think most of them pretty well—well, all of them pretty well explain themselves, and shouldn't—because, like I say, I realize those people are laymen like myself, and I stick to those short ones.

Q. Would you read Article II of the Bill of Rights?

A. "No person shall be deprived of life, liberty or property, except by due process of law. Except as otherwise [fol. 524] provided in this Constitution, private property shall not be taken or damaged except for public purposes and after just and adequate compensation is paid."

Q. Now, what sort of an answer would you expect to that?

A. Well, I have accepted—we'd say such as—people say, "Well, that's showing me my rights and my property and what can be done with it, and I have the right to go to court with just compensation for property," a lot of them refer to it similar to this Section 37 of Article III, you know, they just explain—I let them get off if they give me a for instance, like, say—"I got property or something and they

don't want to pay me what I think is fair for a right of way, that I had a right to go to court and sue for it."

Q. Would they have to say that it has to do with their property?

A. Well, yes, sir, and their rights, yes, sir, their life and liberty and such as that. Just as long as they kind of stay in line with something, because like I say, I realize that the average layman—that they are—that most of them are scared and confused, seems like, when they come in the office, because it's new to them.

Q. Does your copy have these bold faced headings?

A. Yes, sir. It's identical—the same as this one.

Q. On Article I, Section 4, if someone just said, "Freedom [fol. 525] of religion," would that be a satisfactory answer?

A. I have accepted it, yes, sir. Generally they'll say something like, "That gives me the right to go to the church of my choice." A lot of them will go into the history—that's the reason the United States was founded.

Q. Now, what sort of an answer would they have to give to Article III, Section 31?

A. Article III, Section 31—something like setting up the legislative bureau for the purpose of checking the constitutionality and duplication and legality of acts and bills and what have you. Most of them—just a lot of times they'll give me the answer that it's doing with the setting up of the legislative bureau, membership, duties, something like that. I accept that.

Q. If an applicant doesn't understand a word, will you explain it to him?

A. I will tell him the word.

Q. Will you define it for him?

A. No, sir.

Q. Have you ever published a list of the sections that you use?

A. No, sir.

By Mr. Kron:

Q. Is there anything in the law that requires you to publish that list?

[fol. 526] A. No, sir.

By Mr. Dunbaugh:

Q. Are you the sole judge of what is the correct interpretation?

A. Yes, sir.

Q. And have you set up these procedures as your own?

A. Yes, sir. I mean, referring to the state law I set it up on my own work, of course, with the state law or by using the sections of the Constitution for the interpretation test.

Q. Well, I mean the method of using the interpretation tests is something you've adopted on your own?

A. You mean—how do you mean the method—by letting them take this first and fill out the application later, or—

Q. By using these particular sections, using this particular Constitution rather than the federal Constitution, is that—

A. Yes, I set it up on my own, and the reason, though, that I didn't have a section of the federal Constitution in the office.

Q. Having oral answers rather than written answers?

A. Yes, uh huh.

Q. Have you ever given applicants any tests in addition to this?

A. Yes.

Q. What sort of a test?

[fol. 527] A. We have the understanding of the form of government of the United States.

Q. What sort of a test is that?

A. It's just questions on—like, who is Commander in Chief of the United States Armed Forces, or how many senators are elected from each state to the United States Senate.

Q. How many questions is each applicant asked?

A. Four.

Q. How many must they get correct?

A. Two.

Q. Is every applicant asked the same four questions?

A. No, sir.

Q. How many questions in all are there to draw these four questions from?

A. Twelve.

Q. Are they three sets of four questions, or do you just draw four out of the twelve?

A. I just ask four out of the twelve.

Q. Who devised the questions?

A. The Attorney General's office.

Q. When did you start asking these questions?

A. It must have been in August of—I'm pretty sure it was August of last year, 1961.

Q. Who suggested that you start asking them?

A. I called the Attorney General to discuss it with him, and I realized that I wasn't doing it, and I figured if it was [fol. 528] the state law, I'd better start doing it. So I called Mr. Gremillion, and he sent them out to me.

Q. He sent you the twelve questions?

A. That's right.

Q. Did he suggest how many an applicant—

A. No.

Q. —would have to answer—

A. No, sir.

Q. —and how many correctly?

A. No, sir.

Q. Was that strictly your own idea?

A. That was my own idea. I figured that was about as fair as the test could be. I mean, I could have asked the whole twelve, but I didn't figure that would be fair to the people, and by having to answer two out of the four, that would give us some pretty good odds on how many senators, and like I say, such as that, on the Constitution.

Q. Do you have a copy of those questions?

A. No, sir.

Q. Did the Attorney General provide you with the answers to those questions?

A. Yes, sir.

Q. Have you published those questions?

A. No, sir. I am not required by law to publish them.

Q. When did you first discover that there was a provision [fol. 529] in the Louisiana law—

A. Well, whenever it said they should have a reasonable understanding of their government, and it was brought out, I believe in the civil rights hearing, where they were sup-

posed to do it. So that's what got the question on my mind, the onliest reason I called the Attorney General.

Q. Did anyone suggest to you that you should have been asking this?

A. No, sir.

Q. Has anyone been around to your office to discuss your registration procedures and policies?

A. Well, I mean, what manner do you—I mean, I have a lot of people come in and ask me what do they have to do to register, or what's the new deal, or something like that, you know. And I explain to them that it's not new, it's been a law—most of it since 1921.

Q. Any people from outside the parish?

A. Well, I had members of the White Citizens Council come talk to me the first day I was in office.

Q. What did they say?

A. Well, they more or less wanted me to run it to suit them, and I told them I would run it according to state law.

Q. Anyone else?

A. Not right offhand, other than like I say, just people coming in and asking me. So far as anybody trying to [fol. 530] get me to do something, I didn't do it. That's been the only, I believe, that I—

Q. Has anyone from the Joint Legislative Committee been around to your office—the Joint Legislative Committee on Segregation?

A. Now, Senator Rainach was with them. I don't remember whether he was on the committee then or not.

Q. He was with them when they came around to your office?

A. Yes.

Q. What procedures did they want you to adopt?

A. Well, they wanted me to accept all of the challenged affidavits that they had.

Q. Who were they challenging?

A. Various citizens of the parish, you know, people that —some of them didn't live there, and they were challenging the cards that was improperly filled out.

Q. Has anyone from the Sovereignty Commission—

A. Yes, sir. I had—

Q. —been to see you?

A. Yes, sir. I had—I don't remember the gentleman's name, but he came by, but he was just checking on the procedure of my office, more or less what we are going through here today. He didn't give me any suggestions or tell me what I had to do, or what I couldn't do.

Q. Has Mr. Cutrer ever been to your office?

A. Mr. Hugh Cutrer?

[fol. 531] Q. Yes.

A. Yes, sir, he's been by. I called him several months ago, and asked him to come out. We were thinking about—the police jury was discussing setting up permanent registration, so I asked him to come out and explain it to them.

Q. Have you discussed the administration of the interpretation tests, or the duties and obligations tests with anyone from the state other than the Attorney General's office?

A. No, sir, not—not right offhand that I can think of. I mean, I told the gentlemen from the Sovereignty Commission what I did and the way I did it. So far as asking him his advice, I didn't do it.

Q. In administering the interpretation tests, do you want the applicant to—or do you require, I should say, that the applicant show to you that he understands these provisions as well as you do?

A. No, sir, I wouldn't say that I require them to do that, because I realize I sit up there and study them, and the person just has it put to him right there in front of him, and like I say, most times some of them are kind of nervous anyway because of the outside talk on the office that—

Q. How well should he understand these provisions?

A. I just think reasonable. It's something to what it's pertaining to. Naturally, if I let a man read one section—[fol. 532] like I say, if I let him read this Article II—Article I in Section 2, if his brother or somebody has been in the day before and read Section 4 of the same article, and I give him Section 2 and he gave me an interpretation of Section 4, I mean, I couldn't accept that. I don't accept it.

Q. In making up your own mind then as to what is a reasonable interpretation of these sections, have you studied anything in addition to the sections themselves?

A. Well, I've read—I'd say I used the library a good bit so far as history and whatever—just read a good bit. So far as studying the law, or something like that, I haven't made any effort to try to get any books from an attorney yet.

Q. Have you ever discussed these sections with an attorney?

A. No, sir, other than, you know, the Attorney General, but I haven't discussed these sections with him, but he's the only one I've discussed my office with—either he or a member of his staff.

Mr. Dunbaugh: Mr. Kron, do you have any questions?

By Mr. Kron:

Q. I think you stated you did not accede to the requests of the White Citizens Council—

A. No, sir, I did not.

[fol. 533] Q. —to run the office as they wished you to?

A. As I thought fair.

Q. Now, with the exception of the White Citizens Council, has there been any other official people who have told you, or suggested to you, or tried to influence you to run your office in any given way?

A. No, sir, it hasn't.

Q. When you called the Attorney General's office about this eitizenship test, you did so to seek advice—

A. Yes, sir.

Q. —and help—

A. Yes, sir.

Q. —but the idea of giving the test was your own?

A. It was my own, derived from, like I say, from the pamphlet and it's in the Constitution—State Constitution, and to the civil rights hearing in New Orleans.

Q. Has there at any time been anyone who has—in an official position—who has asked you to run your office in a manner calculated to deprive anyone of the opportunity to register?

A. No, sir.

Q. Has there been anyone in an official position, police jury, Attorney General, Sovereignty Commission, who have asked you to keep Negroes off the roll?

A. No, sir.

Q. Have you operated your office in any way with that [fol. 534] idea, or a design to keep Negroes off the rolls?

A. No, sir.

Q. That's all.

A. In fact, if I can make a statement, I believe, down deep, I try to be more lenient with the Negroes than I do with the white applicants for the reason of watching myself from discrimination of any sort.

Q. You are cognizant of the fact—

A. That's right.

Q. —that if you did discriminate, that you would be subjected to penalty?

A. Yes, sir.

Q. O.K.

A. Under the state law as well as the—

Q. Federal?

A. —federal.

By Mr. Dunbaugh:

Q. Have you received any instructions from the state recently concerning the new test?

A. I have received some cards that they advised me to have printed—to have prepared so when they send me some more information—

Q. These are cards with questions?

A. No, sir, this is the L.R. 1 card, revised.

Mr. Dunbaugh: I have no further questions.

Mr. Kron: That's all.

Witness excused at 11:02 A.M.

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[fol. 535]

STATE OF LOUISIANA:
PARISH OF EAST BATON ROUGE:

I, Kathleen G. Bourgeois, reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify as follows:

That the witness, Quitman Crouch, was duly sworn by me, appointed officer of the Court, to testify to the truth,

the whole truth and nothing but the truth, and that the foregoing deposition was taken by me and reduced to typewriting by me.

That the aforesaid deposition constitutes a true record of the testimony given by the witness, and that counsel agreed there was to be no stipulation attached to the deposition.

That Frank M. Dunbaugh, III, Esq., Department of Justice, Washington 25, D. C. represented the plaintiff, and Harry J. Kron, Jr., Esq., Assistant Attorney General for the State of Louisiana, Capitol Building, Baton Rouge, Louisiana, represented the defendants, and that each was present during the entire examination.

That the deposition was held in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana, on the 25th day of August, 1962, commencing at 10:30 o'clock A. M.

[fol. 536] That I am not an attorney or counsel for any of the parties, nor am I a relative or an employee of any attorney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 4th day of September, 1962.

/s/ Kathleen G. Bourgeois
Reporter
Parish of East Baton Rouge
State of Louisiana

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[fol. 537]
State of Louisiana:
Parish of St. Helena:

I, Quitman Crouch, witness in the above-entitled cause, do hereby certify that I have read the above and foregoing, and that it is a true and correct transcription of the testimony given by me on the 25th day of August, 1962, commencing at 10:30 A. M., in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana.

Greensburg, Louisiana, this 14 day of December, 1962.

/s/ Quitman Crouch
Quitman Crouch

[fol. 538]

PLAINTIFF'S EXHIBIT No. 21H

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

UNITED STATES OF AMERICA,

vs.

STATE OF LOUISIANA, et al.

The deposition of Charles H. Crain, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of Charles H. Crain, Registrar of Voters, Winn Parish Court House, located in Winnfield, Louisiana, commencing at 11:15 A. M. on the 8th day of October, 1962.

[fol. 539] The witness, CHARLES H. CRAIN, after having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name, please.
A. Charles H. Crain.
Q. What is your address, Mr. Crain?
A. 317 North St. John, Winnfield.
Q. Where were you born?
A. I was born in Jackson Parish.
Q. And when were you born?
A. In 1902.
Q. How long have you lived in Winnfield?
A. Oh, I have been in Winnfield nine years.
Q. What education do you have?
A. Ninth grade.
Q. When did you become registrar of voters?
A. Fifteenth day of March, '62.

Q. You are the registrar now of Winn Parish?

A. Yes.

Q. When you first became registrar of voters, what procedures did you adopt?

A. Well, when I came in here, they was right in the middle of this permanent registration. And I took up like they had—like they was going on through. They had a—Mrs. Flournoy had a deputy over here, Mrs. Curry—Eula Curry, and we tried to carry it on like they was going on [fol. 540] through with it when I came.

Q. You mean in transferring from periodical to permanent registration?

A. Right, yes, sir.

Q. When an applicant for registration came in, what did you require him to do?

A. Well, he filled out the card just like they had been doing. They had one card to fill out.

Q. Did he have to do anything more than that?

A. No. Oh, he had to sign the permanent certificate outside of that, that was all.

Q. Have you ever required an applicant to interpret any provision of the Constitution?

A. No.

Q. Why haven't you done so?

A. Well, I haven't—I haven't had any orders not—to require it.

Q. Has anyone suggested to you that you ought to require it?

A. No.

Q. Have you had any of the difficulties with the White Citizens Council that Mrs. Flournoy had?

A. They haven't bothered me at all. They haven't been in here since I came in.

Q. I have no further questions.

Witness excused at 11:20 A.M.

[fol. 541]

PLAINTIFF'S EXHIBIT No. 21 I

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff

versus

STATE OF LOUISIANA, et al., Defendants

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Deposition of MRS. PAULINE A. CULPEPPER, taken at the behest of and on behalf of Plaintiff herein; on August 21, 1962 in Caddo Parish Courthouse, Shreveport, La.

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[fol. 542] MRS. PAULINE A. CULPEPPER, witness called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Mr. Dunbaugh: This is the deposition of Mrs. Pauline A. Culpepper, taken at the instance of the Plaintiff, commencing at 10:10 on the morning of August 21, 1962, pursuant to notice and under the Federal Rules of Civil Procedure. Subsequent to the swearing of Mrs. Culpepper, and prior to questioning her or swearing or questioning any other witnesses; Counsel for the respective parties were not able to agree as to whether or not the rules would be invoked with respect to other witnesses who were also subpoenaed to give their depositions.

The Plaintiff's position is that it is entitled to invoke the rules, and that the witnesses who are waiting to testify shall not be present in the examining room during the testimony of the preceding witnesses.

The Defendant's position is that the rule does not apply [fol. 543] and that all persons subpoenaed have the right to

be present during the taking of the depositions. The deposition will proceed with the subsequent witnesses in the room.

Examination by Mr. Dunbaugh:

Q. Will you state your name, please?
A. Mrs. Pauline A. Culpepper.
Q. What is your address, Mrs. Culpepper?
A. Gibsland, Louisiana.
Q. What position do you hold?
A. Registrar of Voters, Bienville Parish.
Q. How long have you been Registrar?
A. Since March of 1950.
Q. By whom were you appointed to this position?
A. The Bienville Parish Police Jury, the governing body of the parish.
Q. Did you seek the job?
A. Yes.
Q. To whom did you apply?
A. The Police Jury.
Q. Who had been Registrar before you?
A. Mr. Nicholson.
Q. How did the vacancy occur?
A. He died.
[fol. 544] Q. Now, in seeking the job, did you submit some sort of an application or go to see someone, or what did you do to get it?
A. I wrote a letter asking them for an interview.
Q. And how were you advised you had gotten it?
A. Beg your pardon?
Q. How were you advised that you had gotten the job?
A. One of the Police Jury members came to the meeting that afternoon, from my ward, and said I had been approved for the position at the meeting, and that I would get a commission from the Governor later on.
Q. Did they interview you for the job?
A. I had my qualifications in my letter.
Q. I'm sorry, I didn't understand you.
A. I had my qualifications in my letter.
Q. I see. What did you set forth in your letter, do you recall?

A. No, I don't.
Q. When and where were you born?
A. Gibsland.
Q. And when was that?
A. May, 1914.
Q. And have you resided there all of your life?
A. Yes.
Q. What education do you have?
A. High school education.
[fol. 545] Q. What were your activities prior to the time that you became Registrar?
A. Well, I worked in an office for a lumber company, and worked in a general store.
Q. What sort of work did you do with the lumber company?
A. Bookkeeping, payroll.
Q. And in the general store, what sort of work did you do in the general store?
A. Clerking and keeping books some there too.
Q. Were you a registered voter at the time you were appointed Registrar?
A. No.
Q. Had you been a registered voter prior to that time?
A. No.
Q. When you took the job, did anyone explain to you what the job entailed?
A. No.
Q. How did you know what to do?
A. I read the rules and regulations, we had a copy of the rules and regulations.
Q. These are the registration statutes of the State of Louisiana?
A. Yes.
Q. Is that all you read?
A. At that time.
Q. What procedures did you institute at that time?
[fol. 546] A. I tried to follow the same procedures that Mr. Nicholson had used.
Q. Now, how did you know what he had been doing?
A. Well, I just registered people.

Q. Well, what did you do when a person came into the office and ask to register, what procedure did they have to follow?

A. Well, at that time I would just give them a registration card and ask them their age, where they lived in the state and parish, and then I would give them the application card and they filled it out, and I would register them. Of course, we had 4-year registration then, and we have permanent registration now.

Q. And if they had lived in the parish a sufficient length of time and were old enough—

A. At that time it was a year in the parish and two years in the state.

Q. And if they met this qualification and were old enough, were they then registered?

A. If they filled out their application.

Q. Well, suppose they could not fill out their application?

A. Then I turned them down.

Q. Were they able to register as illiterates at that time?

A. Beg your pardon?

Q. Were they able to register as illiterates at that time?

A. Yes, if they had two to sign the affidavit for them.

[fol. 547] Q. Was there any other test given, other than the filling out of the form?

A. No.

Q. What records were kept by your predecessor, what records did you find in the office when you got there?

A. The registration cards and the precinct books, our precinct records.

Q. And were they in good order when you arrived?

A. So far as I could tell.

Q. You said, I believe, that no one really explained to you what the job was about when you first took office. Did the Police Jury member who came to you and told you that you had the job tell you what the job was at the time?

A. Oh, I don't remember whether he did that or not.

Q. Well, what did you understand the job to be?

A. Well, I understood the job to be to register people; if they were qualified and came in to register, to have them fill out the application card and register them.

Q. Now, subsequent to the time you first took office, you changed your procedures; is that correct?

A. Yes.

Q. And what did the procedure then become?

A. You mean the procedure that I use now?

Q. No, the procedure that you used when you first changed. You said originally you only required that they [fol. 548] fill out the application card; and that sometime after that, as I understand it, you changed to include other things, the interpretation test and so on?

A. In November of 1955.

Q. In November of 1955?

A. Yes sir.

Q. And what were the procedures at that time?

A. The Police Jury asked me to comply with all of the registration laws of the State of Louisiana.

Q. And how did the Police Jury ask you to do that?

A. They called me into one of their meetings in November of 1955 and asked me to start complying with the registration laws.

Q. Were they more specific than that in telling you what you should do?

A. No, just to comply with the registration laws.

Q. Well, what did you understand that to mean?

A. Well, to comply with all of them, and they read the registration laws over.

Q. Did you feel that you had not been complying with them before that time?

A. Well, I hadn't followed all of them.

Q. When you had first taken office, you said that you read over the Louisiana Statutes. Now, among those statutes was the requirement that the interpretation test be given all applicants, was it not?

[fol. 549] A. The Registrar before me didn't use that.

Q. How do you know that?

A. Well, I had been registered myself.

Q. I thought you said you had not been registered prior to the time you took office?

The Witness: I thought you asked me had I been Registrar of Voters, didn't you?

Mr. Dunbaugh: Oh, no. No, I asked you if you had been registered prior to then?

The Witness: Well, I'm sorry, I misunderstood you.

Q. Then you had been registered?

A. Yes sir, I had been registered.

Q. And who registered you when you registered?

A. Mr. Nicholson.

Q. And at that time, then, what did he require you to do?

A. To fill out the application card.

Q. And nothing in addition to that?

A. No.

Q. Now, after the Police Jury instructed you to comply with all of the laws, what did you understand that to mean?

A. Well, I began to ask everybody—they had to have identification; you know, their driver's license or something like that to show that they had been in the parish and state—then it was two years but now it's one year; and in the parish it's six months, where it used to be in the parish [fol. 550] a year; and also took their driver's license, and I would question them as to what ward and precinct they lived in. Then I gave them a small section of the constitution to read and interpret before I gave them the application card.

Q. Now, if I understand you correctly, the first thing you did was to require that they identify themselves?

A. Yes.

Q. The second thing was that they interpret a provision of the constitution?

A. Establish the ward and precinct they lived in.

Q. And how would they do that?

A. Well, I would question them as to where they lived in the parish.

Q. And then thirdly the interpretation test, and then last the application test?

A. Uh huh. (Affirmative)

Q. Did you always follow that procedure?

A. Yes. I don't do that now, though.

Q. I understand that. Before you started giving the interpretation test, before November of 1955, I understood

you to say that applicants were sometimes rejected. Now, for what reasons were they rejected then?

A. Because they didn't fill out the card.

Q. They didn't fill it out at all, or they didn't fill out all of it?

[fol. 551] A. Well, some people came in the office and picked up the card and pitched it back at me.

Q. How about if they filled it out partially?

A. I would tell them they couldn't be registered, that they didn't qualify.

Q. All right. Now, when you started using the interpretation test, who instructed you as to—well, let's put it this way: Did anyone instruct you as to what that test was and how it was to be applied?

A. No.

Q. Did you consult with anyone about what you were to do?

A. No.

Q. What was your understanding of the test at that time, what did you think it was a test of?

A. I used the Constitution of Louisiana, because I didn't have a copy of the United States Constitution; and I thought that our people would be more familiar with our State Constitution.

Q. You used a book similar to this here, which is issued by the Secretary of State?

A. Well, mine is an old one, it's not new like that, and I have another one in the office that I use. Both of them are about to come apart.

Q. May I see that please?

A. Yes.

Mr. Dunbaugh: For the record, can we identify this, [fol. 552] Mr. Kron, as the "Constitution of the State of Louisiana, adopted in convention, City of Baton Rouge," dated June 18, 1921?

Mr. Kron: That's correct.

Mr. Dunbaugh: And I believe this is the 1921 edition, isn't that correct, Mr. Kron?

Mr. Kron: No, I don't know if that's correct or not.

Mr. Dunbaugh: Do you know whether or not this has been amended?

Mr. Kron: For purposes of the record and without defending the question you have asked me, I think you're going to find that whether or not this is an unamended edition of the Constitution used by Mrs. Culpepper will be of no consequence; because I know that she is going to show you a pattern of certain sections that were used in giving the test, and they were not, as in other cases, given at random through the constitution; so that whether or not it is an amended or unamended copy in this instance will be [fol. 553] of no consequence, but you can develop that as you go.

Mr. Dunbaugh: All right.

Q. Where did you get that book?
A. It was in the office.
Q. When you took office it was already there?
A. Yes.
Q. Do you understand everything that's in it?
A. No.

Mr. Kron: I object to that question.

Q. Do you use all of them?
A. No.
Q. What parts do you use, and what parts do you not use?

The Witness: Can I use this?
Mr. Kron: Yes.

A. I use Article 1, Section 2—
Q. May I for a moment change the question just a bit, because right now we're talking about the period right after November, 1955, and we'll say prior to November, 1960?
A. Well, probably I might have used some other sections before then, I don't recall, but these are the ones I've been using for a long, long time.

Mr. Kron: And only these?

A. Yes sir.

Mr. Dunbaugh: All right.

Mr. Kron: All right. Would you, then, read into the [fol. 554] record, the sections that you use as a test, please?

A. Article 1, Sections, 2, 3, 4, 6, 7 and 11; and—

Q. Wait a minute, now; Section 2—?

A. Sections 2, 3, 4, 6, 7 and 11; Article 2, Section 1; Article 3, Section 1, 37.

Q. Sections 1 and 37?

A. Yes sir.

Q. All right?

A. Article 10, Section 16; Article 14, Sections 1, 2 and 29.

Q. Those are the ones that you were using primarily during the period from November, 1955, until roughly November, 1960?

A. Yes sir, as well as I recall, that's correct.

Q. How did you select these sections to use?

A. Just in looking over the constitution and reading and studying it, I thought they would be the ones to use, ones that I could understand better myself.

Q. Have you received any instructions from anybody else as to the constitution?

A. No.

Q. All your study of the constitution has been self-study?

A. Yes.

Q. Do you have a Deputy Registrar?

A. Yes.

Q. Does the Deputy Registrar register people from time to time?

[fol. 555] A. Yes.

Q. What instructions have you given your deputy?

A. The same as I've given here.

Q. When was your deputy appointed?

A. Oh, just sometimes right after I took office.

Q. And what is your deputy's name?

A. Ester B. Caskey.

Q. Who appointed your deputy?

A. Well, I chose who I wanted, and then she was issued a commission from the Governor.

Q. Now, at the time she was appointed, you were not giving tests, is that correct?

A. I don't recall, I don't believe I was.

Mr. Kron: When was she appointed?

A. Just soon after I was.

Q. So that in November, 1955, you believe she was deputy at that time?

A. Oh, yes.

Q. Then did you instruct her as to what sections of the constitution to use?

A. Yes.

Q. And how to administer the tests?

A. Yes.

Q. What instructions did you give Mrs. Caskey?

A. Well, we just discussed the registration laws, and we [fol. 556] looked over the constitution and decided which ones we would give.

Q. Did she read it over too, the constitution you have?

A. Yes.

Q. All right. Now, when an applicant is to be tested, how do you select which of these provisions to give the applicant?

A. Well, I just open the constitution and whichever one I want to, I just give it to them, because they're all about the same length.

Q. Do you take the book and open the book yourself?

A. Yes sir.

Q. And pick some section out?

A. Yes sir.

Q. You have no particular method of determining which section a particular applicant will be asked?

A. No.

Q. Did you instruct your deputy as to what system to use?

A. No, just choose them at random.

Mr. Kron: You choose them at random?

A. Yes sir.

Mr. Kron: But among these particular sections?

A. Yes sir.

Q. Well, at random; you don't mean to say that you put all these numbers in a hat or something and pull out one?

A. No.

Q. You just thumb through the book and find a section [fol. 557] that you feel like asking him about?

A. Well, I have the constitution; see, I have my copy marked, the ones that I use.

Q. Now, prior to November, 1960, illiterates were permitted to register, is that correct?

A. I don't recall what date it was that we could register illiterates.

Q. Well, at one time after you started giving the tests, illiterates were permitted to register; isn't that true?

A. Yes.

Q. Now, in selecting a provision for illiterates, how would you select a provision for them?

A. In the same manner that I just stated.

Q. All right. Now, once you have selected the provision, what form does the question take, what do you do?

A. I ask them to read it and explain it.

Q. You hand the applicant the book?

A. I give them the book, and they keep the book until they have explained the section to me.

Q. What sort of an answer must they give, a narrative answer or—

A. Well, just a general answer, I don't mean for them to give it word for word; just to explain it in their own words, what it means to them.

Q. If they find one word in a paragraph that they don't understand, do you explain that word to them?

[fol. 558] A. No sir.

Q. Do you ever ask an applicant to define a word?

A. No.

Q. How about with illiterates?

A. Well, it's been so long since I've registered an illiterate until I don't recall.

Q. Well, did you read it to them?

A. Yes.

Q. And then they were to explain it?

A. Yes.

Q. Orally?

A. Yes sir.

Q. Was any record kept of the question that was asked, or the provision that they were asked to interpret?

A. No.

Q. Was any record kept of the answer that they gave?

A. No.

Q. From what you said before about the order of giving the test, I assume that if an applicant filled out an application card, either accepted or rejected, that the person passed the interpretation test?

A. I didn't understand that.

Q. You've said before that the interpretation test was given prior to filling out of the application form—

A. Yes, that was sometime back, but I don't know when [fol. 559] I started them the—it must have been sometime after 1960 that I gave the registration so I would have something to file in case they didn't fill out their application card; and they fill out the application card now, and then I give them the constitution and that's the last thing.

Q. At the time you were giving the constitution first, did you determine, prior to giving them the application card, whether or not they had satisfied the interpretation test?

A. Yes.

Q. So that during that period say, if an applicant filled out an application card, either successfully or unsuccessfully, that they must have passed the interpretation test?

A. They have to pass their interpretation test, then and now too.

Q. But even those who failed, if they filled out an application card at that time, must have passed the interpretation test or they would not have gotten an application card; is that true?

A. That's right.

Q. And then you said you changed it since that time; you give them the card first?

A. Yes.

Q. And then the interpretation test?

A. Yes.

Q. Do you recall when you changed that?

A. No, I don't.

[fol. 560] Q. Could you relate it to some other incident, was it before or after the trial of "United States Versus Association of Citizens Councils"?

A. I don't recall.

Q. Now, you said you have changed your procedures since this time that we've been talking about, but you're not sure when you changed them?

A. No.

Q. Did you change the material that you asked about?

A. No.

Q. In other words, you still ask about these same sections?

A. Yes. Oh, I might have used some other sections of the constitution, but I don't recall what it was, it's been so long; but I've been following just the same articles and using the same sections for a long, long time now.

Q. There has been no change in that huh—

A. No sir.

Q. —right through since November, 1955?

A. That's right.

Q. And I take it there has been no change in your method of selecting which section you're to ask them about, you just pick one at random out of these?

A. Well, I pick out one of these that I gave you.

Q. Is the only change, then, that you've made since November, 1955, that the applicants are given an application [fol. 561] card first instead of after they've passed the interpretation test?

A. Well, the first thing I give them is the little card that states they will faithfully abide by the laws of the State of Louisiana, and they have to sign that.

Q. The oath?

A. Yes, and date it.

Q. That's been added?

A. Yes. Then I ask them—they have to prove they can read and write; I ask them to read the preamble of the Constitution of the State of Louisiana, and when they have

read that I ask them to turn the card over on the back; and as I read it back to them, to write a portion of that as I read it to them, and that, of course, proves that they can read and write. Then after they do that, then I give them the application card, and I get up and go on about my business and they fill it out, the application. I take one person at the time and I give them plenty of time to fill out their registration card.

Q. And then you give them the interpretation test after that?

A. After they do their registration card, after they give it to me and tell me they have finished.

Q. Well, now did that change in procedure from what you were doing in November, 1955, did all of those changes come about at the same time; start reading the oath card, the preamble and change in the order of the test and the [fol. 562] application, did all of this commence at one time or—

A. Well, as far as the oath card and the preamble, that must have all came about the same time, because we got this from the State Board of Registration.

Q. Are you referring to the letter of January 16, 1961, from the State Board of Registration?

A. Yes.

Q. Now, it was at that time that you started the oath and preamble?

A. I believe so, but I'm not sure; I don't know whether we were giving those oath cards before then or not, I don't recall, I would have to go back and check my records on that.

Q. Now, in giving the preamble, you use the preamble of the Constitution of the State of Louisiana?

A. Of Louisiana.

Q. And what do you do, do you hand them the book?

A. I hand them the book and they read it.

Q. Out loud?

A. Yes. That's to prove that they can read. If they can't read the preamble of the constitution, I turn them down.

Q. Well, what would you consider an error in reading?

A. Well, if they can't pronounce the word, then I would think that would be an error.

Q. If there is any one word in here that's not pronounced, then you would reject them?

[fol. 563] A. That's right.

Mr. Kron: Do you do that for both white and colored?

A. Yes sir, every person.

Q. What words are most commonly mispronounced?

A. Well, liberty.

Q. What would some of them say rather than liberty?

A. Liability.

Q. And if they said "liability", you then would reject them?

A. That's right.

Q. Are there any others you can think of?

A. Political; politician.

Q. If they said politician rather than political, would you reject them?

A. Uh huh (affirmative), it says they must be able to read it, and that wouldn't be reading it correctly.

Q. All right. Now, after they have read that, what do they do next, write it?

A. Write a portion of it on the back of the oath card.

Q. Do they refer to the written copy, or do you read it to them?

A. I read it to them.

Q. What portion do you read?

A. "We, the people of the State of Louisiana, grateful to Almighty God for the civil—"; I have them write that.

Q. You stop with civil?

A. Yes sir.

[fol. 564] Q. In all cases?

A. In all cases, for everybody.

Q. And they write this on the back of the oath card?

A. Yes, on the back of the oath card. I have them all filed in my office.

Q. If someone didn't do this correctly, you would stop them at that time?

A. Yes.

Q. And what sort of errors do they make at this point?

A. Well, they will pronounce the words incorrectly in reading it, or if in writing it they don't spell it right.

Q. Which words are most commonly misspelled?

A. Civil and almighty—

Q. How do they spell civil?

A. —and grateful; spell grateful g-r-e-a-t-f-u-l; spell civil, s-i-v-i-l.

Q. And if they have made any one of those errors, they would be rejected at that point?

A. Yes.

Mr. Kron: Have you had any that were rejected—

A. I don't have—I don't remember whether I have any that have been rejected for that, but I would; but anyone that can read that sentence there, well they can write it I'm sure. I've noticed some have misspelled grateful and civil.

Q. And those who have misspelled it have been turned down?

[fol. 565] A. Yes.

Mr. Kron: And you've applied that rule to everyone alike?

A. Yes, yes sir, everyone writes that on the back of their oath card. It takes a lot of time to do all of that for the purpose of registering.

Q. With this reading and writing of the preamble, what are you testing for there?

A. What do I do—what?

Q. What are you testing the applicant for in giving him the preamble to read and write?

A. The first thing is to prove that they can read; in reading the preamble they can prove that they can read, and in writing a portion of it on the back of the oath card, that's to prove they can write.

Q. Now, with the interpretation test, what are you testing for?

A. Their qualification to register.

Q. Well, what sort of an answer are you trying to elicit on the interpretation test, that's what I was driving at?

The whole thing is to test their qualification to register, but I meant precisely what are you testing for in giving the interpretation test?

A. That's what I said, their qualification to register.

Q. Well, I know, and that's true of everything that you do, the whole procedure is to test their qualification; but [fol. 566] what particular qualification are you trying to elicit?

A. That they're able to interpret a section of the constitution. That's the law, that a person must be able to read and interpret a portion of the Constitution of the State of Louisiana, or of the United States.

Q. How do you determine whether or not the answer given of their interpretation is satisfactory?

A. Well, if he explains it the way I understand it, well I accept it.

Q. Well, for instance, let me show you Article 10, Section 16, one of those that you use; would you read that, please?

A. "The rolling stock operated in this state, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed, for the state purposes only, at a rate not to exceed forty mills on the dollar of the assessed value."

Q. Now, what sort of an answer would be required to that?

A. Well, the rolling stock means trains hauling merchandise through the State of Louisiana, and the owners would live out of the state, their domicile, they would have no domicile therein; that they shall be assessed by the Louisiana State Tax Commission, and it shall be a tax for state purposes only.

Q. If someone were to answer like that, would you ask them then to explain what they meant by "assessed"?

[fol. 567] Mr. Kron: Or would you accept that answer as correct?

A. Yes; yes.

Q. Would you accept any less than that?

A. Yes.

Q. Well, what less than that would be acceptable to you?

A. Well, if they would say the owners were non-residents and that their rolling stock was from out of state, or something like that. I wouldn't expect them to give it just word for word.

Q. Would they have to understand what "rolling stock" means?

A. Yes sir.

Q. And they would have to understand what "not domiciled in the state" means?

A. Yes sir.

Q. If they failed in giving either of those two, would they be rejected?

A. Yes.

Q. If their answer isn't quite to your satisfaction, do you give them another opportunity?

A. Oh, yes, I'll give them several sections, and then if they don't, well I'll tell them they can come back at any time they want to; tell them to copy the constitution and study it.

Q. Well, what I meant was, if they were to read it—do they read it out loud to you, or do they read it to themselves?

[fol. 568] A. They can do either one that they wish.

Q. And then after they've read it and they give an explanation, suppose you don't feel that explanation is quite complete, do you tell them that?

A. Yes.

Q. And then do you let them go on with the same explanation, or are they stopped?

A. Well, if they don't feel sure about that one, I ask them if they would like to use another one.

Q. How many times would you do that?

A. Well, I have let them read three.

Q. You've given them three different sections to read?

A. Yes sir.

Q. And if they can satisfactorily answer any one of them—

A. That's right.

Q. You do that in all cases?

A. Yes sir.

Q. Before the applicant leaves, is he advised as to whether or not he passed the test?

A. Yes sir.

Q. Now I believe you said that when illiterates were registering, or when someone was registering under a physical disability, that the procedure is still the same?

A. Well, we don't register illiterates now.

Q. I know, but you'll still register someone with a physi-
[fol. 569] cal disability, will you not?

A. Yes sir, but I haven't in a number of years.

Q. Do you register out in the precincts?

A. No sir.

Q. You used to, though?

A. Yes.

Q. Were your procedures the same out in the precincts as they were in your office?

A. Yes.

Q. How about if you have a great number of people wishing to register at one time, I believe you said you took them one at the time?

A. One at the time.

Q. Do you still, in that instance, give them 3 chances on the interpretation test?

A. Yes, I've never rushed anyone.

Q. Had that ever resulted in some being left, at the end —at the closing of the books without being afforded an opportunity to register?

A. I don't believe, I've taken them all.

Q. How big a group do you ever get at one time?

A. Well, since we have permanent registration we don't have so many to come in; I'd say 10 or 12.

Q. In one day?

A. You know, that would be sitting at one time.

[fol. 570] Q. At one time; I see. Have you recently gotten instructions from the State Board of Registration, any new instructions?

A. No sir.

Q. Nothing since January of 1961?

A. I have some new registration cards, but I don't have any new instructions.

Q. You mean application forms?

A. Yes.

Q. But no new instructions as to the tests you give and so forth?

A. Oh, no.

Q. Has anyone, other than in connection with the lawsuit in Bienville Parish and this lawsuit, spoken with you concerning your registration policies and practices?

A. No.

Q. Has anyone inspected your voter registration records?

A. Well, the FBI inspected them in 1960, I believe it was; '59 or '60.

Q. Well, in 1956, of course, the Citizens Council inspected your voter registration records, isn't that true?

A. Yes.

Q. And did they speak to you at that time concerning the registration policies and practices?

A. No.

Q. Has anyone from the Sovereignty Commission spoke with you?

A. No.

[fol. 571] Q. And the Joint Legislative Committee on Segregation?

A. No.

Mr. Kron: Anyone from the Attorney General's Office, about your policies?

A. Well, the only one I've talked to is you, I think.

Q. Now, I didn't quite get clear on one point. In giving the interpretation test, are you testing then their ability to read when you give the interpretation test, ability of the applicant to read?

A. Well, the registration laws say they must be able to read and interpret a section of the constitution.

Q. You are testing, then, their ability to understand the constitution?

A. To understand it.

Q. To understand those particular provisions of the Constitution that you ask about?

A. Yes.

Q. Now, it's hard to pin this down I realize, but how well must they understand it; do you have someone in the back

of your mind that you know that you think is qualified at the minimum level, whose performance they must match?

A. No.

Q. Do you follow what I mean? Must they be able to understand it as well as you understand it?

A. Well, most of them seem to. The questions that I [fol. 572] give, anyone that can read and understand anything, well they can read and explain that.

Q. Well, the question really is to how well they must understand it. Now, is it permissible for them to understand it less than you do, or not?

A. Well, now I don't know whether they will understand it whenever they get out of the door or not, but as long as they're sitting there and reading it and explaining it to me, and it satisfies me, well I register them. If they can't remember it when they get out of the door, well I can't help that.

Q. Well, what I'm trying to get to is what satisfies you, how well they must understand it. Necessarily you cannot test them as to whether or not they understand it better than you understand it, but the question is: Can they understand it less than you understand it, and still pass?

A. Well, I don't quite understand what you want me to say.

Q. Well, for instance, I'm sure that you are well acquainted with people that probably are not as well qualified as you are, who do not understand the constitution as well as you do—

A. Yes, I understand that.

Q. —who still, in your opinion, have qualified to vote?

A. Well, if they are able to read and explain the section that I give to them, fill out their application card correctly, then I feel like they are qualified.

[fol. 573] Q. Must they be able to understand it as well as the ordinary citizen would understand the same thing; is that your test?

A. Well, I wouldn't say that; just so it satisfies me, that's all.

Q. Must he understand it better than the average man would understand it?

A. No.

Q. But as well as the average man understands it?

A. As well as the average man, I guess.

Q. Or can they get by if they understand it a little less than the average man?

A. I think I've told you about all I could on this, I don't know how—

Mr. Kron: I think your question is becoming repetitious, and if Counsel will permit me, I think with one question we can tie down what you're driving at.

Mr. Dunbaugh: Proceed.

Examination.

By Mr. Kron:

Q. Just answer this question, then, Mrs. Culpepper: Actually, in all cases, whether black or white, the only determination you make as to their failure to satisfactorily interpret a section of the constitution, is if they cannot read and interpret it at all; is that correct?

A. Yes sir.

Q. So that any small or reasonable interpretation of what they have read, after having been handed the book by you, satisfies your requirement as to the interpretation?

[fol. 574] A. Yes sir.

Mr. Kron: All right. That's all.

Mr. Dunbaugh: I believe that's all. Thank you, Mrs. Culpepper.

Witness excused.

[fol. 575]

PLAINTIFF'S EXHIBIT No. 21J

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF MR. WOODROW W. FARRAR, taken at instance of and on behalf of Plaintiff herein; on August 23, 1962, in Ouachita Parish Courthouse, Monroe, Louisiana.

* * * * * * *

[fol. 576] Examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. Woodrow W. Farrar, Spearsville, Louisiana. That's my home address; my office address is Farmerville.
Q. And you are the Registrar of Voters of Union Parish?
A. Yes sir.
Q. How long have you been Registrar?
A. Since January of 1954.
Q. Did you seek the job?
A. I tried for it, sir.
Q. How old are you?
A. Forty-seven.
Q. And where were you born?
A. I was born at Lillie, Louisiana.
Q. Is that in Union Parish?
A. Yes sir.
Q. Have you resided in Union Parish all your life?
A. Yes sir.

Q. How much education do you have?

A. I have high school and a BS Degree from Louisiana Tech.

Q. Had you been a registered voter at the time that you were made Registrar?

A. Yes sir.

Q. Who registered you?

[fol. 577] A. Mrs. Turnage, the Registrar who was there before I came.

Q. What did you have to do to become registered?

A. I made out the application form and she issued me a certificate of registration.

Q. The LR-1 form?

A. I beg your pardon.

Q. The LR-1 form?

A. That's the application, yes sir; the application for registration.

Q. Did you have to do anything else other than fill out the application form?

A. No sir.

Q. When you took the job—when you first assumed duties as Registrar, did anyone explain to you what your job was about?

A. Yes sir, I was explained to what it was about.

Q. Now, who explained the job to you?

A. I had with me, who is my deputy now, a lady who had been working in the Registrar's office for some time, I don't know exactly how long; and she went through it as much as she could and helped me as much as she could and then I read the registration procedure time and time again, sir.

Q. What's her name?

A. Mrs. Melba W. Frazier.

Q. Was she a deputy for your predecessor?

A. I assume she was, she worked in the office.

[fol. 578] Q. So that she's been working in the office longer than you have, actually?

A. Yes sir.

Q. What did she explain to you the job to be?

A. The job is to register voters, Mr. Dunbaugh. I don't know—that's the only meaning I can get out of your question.

Q. Well, what procedures did you follow when you were first Registrar?

A. When we first started we followed the same procedure that my predecessor did, just filling out the application form.

Q. Have you changed the procedure since that time?

A. Since that time our application has had some changes made in it, and naturally that would be a change of procedure there; and also since that time, we ask each applicant who registers to interpret a part of the Constitution of the State of Louisiana or the United States Constitution.

Q. When did you start asking about the constitution?

A. The latter part of '56.

Q. Had there been a purge of the voter rolls at that time?

A. There was, or challenges of voters in '56.

Q. And did you start using the tests just after that?

A. Along about the same time.

Q. Why did you start to use the interpretation test?

A. That, to me, according to the state law, in order for a person to become fully qualified to vote, that is part of [fol. 579] the procedure; I just hadn't been applying it before.

Q. Why hadn't you been applying it before?

A. I wasn't urged to apply it and there was no demand for it, and I just didn't apply it.

Q. In late 1956 were you urged to apply it?

A. We were—the only thing that I have ever been urged to do is to go fully by the law, and I saw that was part of it so I—

Q. Who urged you to do that?

A. The Police Jury. The only thing they have ever asked of me—we work for the Police Jury, and the only thing they've ever asked of me is to apply the law impartially to everybody, and to go to the letter of the law, and I do that.

Q. When did they advise you to do that, and how did they advise you to?

A. I don't remember the meeting day, but I met with the Police Jury, and I talked to them individually; and that's all they have ever told me to do, is just apply the law.

Q. I mean, did they tell you this in 1956?

A. I don't remember if it was in '56 or not, sir.

Q. Well, was it at the time that you did start using the test, that the Police Jury told you to start applying the test or to apply the law as fully as you say?

A. I would think that it would be in '56, but now I'm not for certain on the exact date of that.

Q. Did anyone else talk to you at that time and suggest [fol. 580] that you start using the test?

A. Mr. Dunbaugh, I've been talked to by lots of people, and I wouldn't try to quote them or anything about it; but I expect you could find more smart Registrars in the State of Louisiana than you would anywhere, and there's 64 in the state—and all of them don't live in Louisiana either.

Q. Well, what I'm getting at is, that when you started to use the tests, I wondered what brought about the change from not using the test to using the test?

A. Well, I can't give you any exact reason, I just started using the—adding the constitutional part to the registration procedure.

Q. Did anyone other than the Police Jury urge you to apply the laws more fully than you have been?

A. Not especially; just any reliable citizen that you talk to, well he'll just say, "Well, apply the law;" that—that's all that I do.

Q. When you started to apply the interpretation test, what then were the steps in the registration procedure?

The Witness: You want me to just outline the steps, just suppose you'd come in to register?

Mr. Dunbaugh: Yes.

A. If I don't know the person personally, well, I ask him does he have identification. If he has that, then I present him with the application for registration; and if he fills it [fol. 581] out properly, well then I ask him to interpret a clause of the United States Constitution or the Constitution of Louisiana, one clause.

Q. Has this order been changed at all since 1956?

A. Not that I know of, sir.

Q. When you started to use the test, did you consult with anybody about how you should apply the test?

A. I wasn't required to consult with anybody.

Q. But did you consult with anybody, ask anyone about it?

A. No sir, I went according to the instructions on the registration procedure.

Q. What instructions were those?

A. We had an outline in the—it's a little booklet put out by the Secretary of State, Registration of Voters, and the whole laws are condensed in that booklet. I wouldn't try to enumerate them because I don't have that book by memory.

Q. What form are the clauses in that you would ask an applicant to interpret; are they on cards or in books or sheets of paper?

A. We have worn out, I believe, three State Constitutions and 2 or 3 copies of the United States Constitution.

Q. Books?

A. Yes sir, the books.

Q. Do you use two different books, then?

A. Generally speaking—well I'll say all the time, prac- [fol. 582] tically, we stick with the Bill of Rights, because I don't add the constitution interpretation to my registration procedure with the intention of disqualifying anybody, I do it to meet the full requirement of the law.

Q. You said the Bill of Rights; did you mean the Federal Bill of Rights or the State Bill of Rights?

A. Well, there's a Bill of Rights in both of them.

Q. You use both?

A. Yes sir.

Q. Do you sometimes ask anyone to interpret something other than one of the sections or one of the clauses in one of these two Bills of Rights?

A. When a person tries to interpret—I may be too lax on them, I don't know, but if he fails to interpret the first clause that I give him, I'll give him two more at least and see if he can interpret them; and then if he does nothing with them, many times—I haven't done that all times, but many times I have asked him just to pick out any part of the constitution and see if he could interpret that.

Q. How do you select the first provision that you show him or ask him to interpret?

A. Well, we have a right to select any clause that we want to.

Q. How do you select them, though, do you open the book and—

A. I just open the book and pick out one that I want him to interpret.

[fol. 583] Q. How do you determine what particular one you will ask the particular applicant?

A. It's just about a ene-mene-minee-mo situation; I don't particularly try to match any clause to any particular person.

Q. Now, you said that ordinarily you will ask about the Bill of Rights—?

A. Yes sir.

Q. —in either the State or Federal Constitutions?

A. And mostly the State Constitution.

Q. Mostly the State Constitution?

A. Yes.

Q. Do you limit it to particular portions of the Bill of Rights or do you include all of that?

A. I have one clause is all that I require a person to read and interpret.

Q. I show you a copy of the Louisiana Constitution; could you pick out of there the particular clauses that you ordinarily ask about?

A. For instance, in this right here, I never ask a person to interpret this whole section of the constitution—

Mr. Kron: Identify that; which section are you talking about?

A. Section 2 of the Bill of Rights, Article 1; and I'll confine that to, "No person shall be deprived of life, liberty or property except by due process of law." I stop right there.

[fol. 584] Q. Do you use all the other sections in there, in that Bill of Rights?

A. Not necessarily so, I just pick out one and let a person interpret it.

Q. Well, I mean which ones do you use and which ones don't you use, that's what I'm getting at?

A. I couldn't tell you, point out exactly every one that I've used since I've been Registrar, Mr. Dunbaugh.

Q. Now, when you open the book and pick out a section, what must the applicant do?

A. I have him to read it.

Q. Out loud?

A. He doesn't have to read it out loud.

Q. And then what does he have to do?

A. He tells me what it means.

Q. Is there any record made of the section that he's asked to interpret?

A. I don't ask him to interpret a section.

Q. Well, the clause that he's asked to interpret, is there a record made of that?

A. The ones who qualify, I don't make a record of it; but the ones who didn't qualify, I do make a record of.

Q. What form does that record take?

A. Beg your pardon, Mr. Dunbaugh?

Q. What sort of a record do you make?

[fol. 585] A. I just write it down on the application.

Q. On the LR-1 form?

A. On the LR-1 form.

Q. What do you write down?

A. I just put down he failed to interpret, and I give the—I identify the part of the constitution that he failed to interpret.

Q. When he answers or gives his interpretation, is that given orally?

A. Yes sir.

Q. Then there is no record made of what interpretation he gave?

A. If he gave it correct, there is no record.

Q. And if he gave it incorrect, is there a record made of the interpretation that he gave?

A. I just said there was, yes sir.

Q. Well, you said that there was a record made of what he was asked to interpret, correct?

A. Yes; well, if he fails to interpret, I make a record of what he failed to interpret.

Q. But no record of what he said?

A. No sir.

Q. No record of the interpretation that he gave?

A. No sir.

Q. What sort of an answer do you consider to be satisfactory, what must the applicant display to you to satisfy [fol. 586] you that he passes requirements?

A. Well, that would depend on the clause that I asked him to interpret.

Q. But speaking generally, can you say what it is you're trying to get him to show to you?

A. I don't know exactly what you are getting at. If I knew that, well, I'd know more about how to answer.

Q. Suppose we take Article 1, Section 4. If a person were asked to interpret that and said, "Freedom of Religion," would that be a satisfactory interpretation?

A. Yes sir.

Q. Did the copy that you use have the bold heading on it, "Freedom of Religion," just as that does?

A. It surely does, it has it right up there in front, and then a lot of them failed to see it.

Q. What I was trying to get at before was, are you trying to determine whether or not the applicant is able to read?

The Witness: Able to read and write?

Mr. Dunbaugh: To read, because you don't have illiterates—

A. I don't think that was what the law was made for, Mr. Dunbaugh. Now, this man could maybe tell you more about what it was made for in the beginning. Now this constitution was established before I became Registrar, and I don't know what the meaning—what the intention was in the beginning.

[fol. 587] Q. No, I'm trying to determine what you're seeking from the applicant in asking him to interpret the constitution?

A. I'm just asking him if he can interpret the part that I gave him, in order for him to meet the full requirement to register, that's my only incentive.

Q. Well, that's just to satisfy you that he is able to read it?

A. If he fills out his application form and meets every requirement, and then interprets the clause of the constitu-

tion I give him; what happens to him from there on, I don't know. I register him if he meets every requirement.

Q. You said that you sometimes ask a person to explain the first part of Section-2; what sort of an explanation do do want for that?

A. Well, I give every person the benefit of doubt, Mr. Dunbaugh, in their explanation. Now, your explanation as a lawyer might be entirely different from mine, not being a lawyer; but I accept from a person—if he says that you can't hang a man without a trial, I accept that; or that you can't take his property without it going through law, I accept that, and I give him the benefit of the doubt every time. If I think he's on the right track and understands what he's talking about, and he gives me one of those answers like that, I accept it; and I think I'm right in accepting it.

Q. Now, you decided somewhere along the line that you would limit your questions pretty much to these Bills of [fol. 588] Rights, is that correct?

A. I wanted to follow this process, Mr. Dunbaugh. Now, you as a lawyer, if you'd come in, well, like I said, I ask every person—even our District Judge, when he came through, and registered I asked him to interpret a part of the constitution. Every lawyer we have registered in Union Parish will do that, and you go through the files and select any man that you want to that—I don't care who he is, or what color he is—and if he'll tell the truth, he'll tell you that he interpreted a part of the constitution.

Well, like I said, I didn't do that to try to disqualify anybody, I did that to meet the requirements of the law; and so help me, if they put it in the law that a person had to stand on his head to meet the requirements, there would be somebody with knots on their heads, because I would carry out the law; that's what I'm there for.

Q. Would you give the lawyers a more difficult provision to interpret?

A. Beg your pardon.

Q. Would you give the lawyers a more difficult provision to interpret?

A. No sir.

Q. The same provisions that you gave to the others?

A. I just picked out a part, I didn't try to single out anybody; and if a fellow comes in and can just barely write his [fol. 589] application, I don't try to make it easy for him or harder for him.

Q. Now, in determining that you're not going to ask applicants about other sections of the constitution—there are other sections in there that you do not ask applicants about, is that right?

A. There's a lot of them in there that I've never asked an applicant.

Q. Why don't you ask them about those?

A. I know there are parts of this constitution that I couldn't anymore tell you what it means than if I didn't exist, and I couldn't expect a person—you asked me how much education I had, and I told you I have my BS Degree.

Well, I'm not bragging about that, understand, but a lot of people haven't been that fortunate; and if I don't understand it myself, I couldn't expect a person with maybe a fifth, sixth or seventh grade education to interpret it. I believe in the Golden Rule.

Q. If a person does not fill out the LR-1 satisfactorily, do they go on to the interpretation tests, or do you stop them at that point?

A. I stop it at that point, because there's no use having him to go through the other part if you know you're not going to register him in the end.

Q. And if an applicant has failed for any reason, do you [fol. 590] advise him of the fact that he has failed?

A. Yes sir, I tell him right then.

Q. Do you advise him of the reason that he failed?

A. I tell him there, I tell him how many errors there are. I don't point them out on the card, but I tell him how many errors there are on his card.

Q. Well, if he has failed on the interpretation test, you tell him that?

A. Yes sir.

Q. Have you heard that other Registrars use the test differently than you do?

A. Mr. Dunbaugh, I don't make it my business to try to find out what the exact procedure that anybody else follows, and I don't go in other people's offices meddling with it. Now, I go according to instructions as they are explained to me and as I interpret it, and I'm trying to do it right.

Q. Well, what I meant was that some Registrars may use some cards or some other method of asking for an interpretation?

A. Well, if they do that's their business.

Q. In determining that you would do it this way, and in determining what answers would be satisfactory to you, are those your own decisions?

A. Now, wait a minute, let's go back there a little bit. Now, in doing it what way, the way I'm doing it?

Q. Yes. In determining that you would question people [fol. 591] about the constitution by having them read from a book rather than from cards, or using this provision rather than some other provision; is that your own decision?

A. That's my own decision.

Q. You haven't been advised as to what way to do it?

A. No sir.

Q. Or what provisions to use?

A. That was my own decision.

Q. And in determining what answers are satisfactory, or what level of performance would satisfy you; is that your own determination?

A. That's my—that's left up to the individual Registrar exclusively right now.

Mr. Dunbaugh: That's all.

Mr. Kron: I have no questions.

Witness excused.

[fol. 592]

PLAINTIFF'S EXHIBIT, No. 21K

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

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UNITED STATES OF AMERICA,

vs.

STATE OF LOUISIANA, et al.

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The deposition of Mary C. Flournoy, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of Charles H. Crain, Registrar of Voters, Winn Parish Court House, located in Winnfield, Louisiana, commencing at 10:40 A. M., on the 8th day of October, 1962.

* * * * * * *

[fol. 593] The witness, MARY C. FLOURNOY, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. What is your name?
A. Mary C. Flournoy.
Q. And what is your address?
A. Beg pardon?
Q. Your address, please?
A. Route 2, Box 12, City of Winnfield.
Q. Were you formerly the registrar of voters of Winn Parish?
A. Yes, from '57 until '62.
Q. When and where were you born?
A. Tallahatchie County, Mississippi—out from Philipp, the little town of Philipp.

Q. And about how old are you?

A. You shouldn't ask that; I'm retired. I was 66 last August the 21st.

Q. How long have you lived in Winn Parish?

A. Since 1924—1924.

Q. How much education do you have?

A. Through the ninth grade.

Q. Was that here or in Mississippi?

A. Mississippi.

Q. Were you a registered voter at the time that you were appointed registrar?

[fol. 594] A. Yes.

Q. What did you have to do to register?

A. Oh, I made out just a card of application.

Q. Did you have to take any interpretation tests?

A. No.

Q. When you became registrar of voters, what procedures did you adopt?

A. Well, the same procedures—just the application card, just the, you know, plain application card of registration. You had to answer all questions on it.

Q. Did you ever require applicants to interpret the Constitution?

A. I did, yes.

Q. When did you—

A. After that law passed in—it was—went into effect November, 1960, wasn't it? November, 1960, I used it for a while.

Q. Prior to November, 1960, did you use it?

A. After.

Q. Afterwards?

A. We were only required to use it after it went into effect in 1960.

Q. And how long did you use it after that?

A. Well, I used it up until we moved over here. That was in—up in April, '61, wasn't it?

Mr. Crain: Yes, ma'am.

[fol. 595] By Mr. Dunbaugh:

Q. When you administered the test to an applicant, what exactly did you have the applicant do?

A. I had them read the Constitution card and tell me what it meant.

Q. Did you have provisions on a card?

A. We had some of those Constitution cards that—I don't know whether Mr. Crain still—I had put them away before I left here—

Q. Well, let me show you—

A. —and I didn't bring my glasses, went off and forgot them.

Q. Mrs. Flournoy, let me show you Appendix B to the government's complaint in this case and ask you if you recognize what that is?

A. That's right. That's the one. Those are the same cards, we had 25 of them.

Q. Now, when an applicant came in, how did he get a card?

A. We selected one at random from the drawer and handed it to him. They didn't have any trouble answering most of them.

Q. Did you have a whole set of cards in the drawer?

A. We had 25.

Q. And then you would select one?

A. Just select one at random, we never did pick any out, we'd just select one at random.

Q. What was the applicant supposed to do then?

[fol. 596] A. Tell us the meaning, what the card meant, read it and tell us what the card meant.

Q. Did the applicant have to read it out loud?

A. Yes.

Q. Did he have to read all three sections?

A. The questions that was on that one side, yes, he'd read all three of them.

Q. And did he have to explain all three?

A. Well, it only required one, explain one.

Q. If an applicant was able to explain one, but was unable to give any explanation of the other two, would he still pass?

A. Yes.

Q. Were his answers written down?

A. No, it's oral.

Q. Was the card saved—

A. We kept it.

Q. —with his application?

A. No.

Q. So that after an applicant was through, was there any record kept of which card he had gotten?

A. No, he was supposed to have passed and be registered if he interpreted the card. There was no notation made.

Q. If he failed, was—

A. That was our law that we went by.

Q. If he failed, was there any notation made?

A. No.

[fol. 597] Q. Now, where did you get the cards?

A. They were sent to us by the state.

Q. Do you recall who in the state sent them to you?

A. No, I don't. They came to us in the mail, and I don't really remember who sent them. You know these things come and you just—

Q. Well, let me show you Appendix C here of the complaint—

A. Oh, no.

Q. —and could you look at that, please?

A. (The witness so did.) Well, that was what—we got that, you know, when we were told to use the cards.

Q. Did you get a letter like this?

A. Yes.

Q. From the Joint Legislative Committee?

A. Yes.

Q. Now, that was in 1958. How was it that you did not use the cards until 1960?

A. Well, they didn't get them printed, I don't suppose, and around; because I didn't get mine until after November. That was when it went into effect. You see, they passed that act in 1958, I think; and anyway, we didn't get our cards until November.

Q. Now, after—

A. It was possibly 1959 we got those cards, maybe.

Q. All right. In 1961 you said you stopped giving that?

A. Yes, I did.

Q. Did you give any other tests?

[fol. 598] A. No.

Off the record discussion.

By Mr. Dunbaugh:

Q. I'm sorry, now, after 1961, you say you stopped giving the tests?

A. Yes, and I'll tell you why. Hugh Charles Mitchell in Shreveport came out publicly that he was not using the cards—you know, in the paper. And I said until they got uniform laws, I wouldn't use them. Until every parish had to use those laws, you know, I wouldn't use them.

Q. So, then, you went back to just the application?

A. That's right, but it caused, you know, friction with some people. I had a scene here in the office one time when an army officer and his wife came in to register. And just the idea of a test, she got nervous, and she couldn't give her interpretation of the card and he got mad and she finally got it, but when she left she was almost in hysterics. And that was one of the reasons I quit it, too. About that time Mr. Mitchell come out with the—that he was not using it, so that just let me out. I said, "I won't have a disagreeable scene like that any more."

Q. Now, in 1958 was your office visited by members of the Joint Legislative Committee on segregation?

A. Listen, I was in trouble with them all the way—with the Citizens Council here and the Joint Legislative Com-

[fol. 599] mittee—Rainach was head of it—and Mr. Rainach —it seemed to me like at that time, he wanted to take over the office.

Q. What did he do?

A. Well, you know, he was running for governor before that and so I—oh, just odds and ends, he was in and out of the office.

Q. Did Mr. Rainach come into this office with Mr. Shaw?

A. Yes.

Q. And Mr. Garrett?

A. Now, I don't believe Mr. Garrett was with them when Mr. Shaw was with them.

Q. I see.

A. It was Mr. Rainach and Mr. Shaw.

Q. And anyone else?

A. And they wanted—they made photostats of a lot of the cards. There was—

Q. Did Mr. Smith come with them?

A. Stanley Smith?

Q. Yes.

A. Yes.

Q. Who was he?

A. Well, he was president of the Citizens Council, wasn't he? Anyway, something of the Citizens Council.

Q. Did other members of the Citizens Council come in with him?

A. Yes, Hiram Wright, the attorney.

[fol. 600] Q. Did they want to challenge voters on your rolls?

A. Yes.

Q. Now, the first time they came, is it true that they did challenge some voters at that time, about 29 or 30?

A. Yes, they did.

Q. Were those—

A. The reason I had trouble with them, I asked them to take the cards as they come and challenge the defects, not considering anybody, you know—to just anybody's card that had a defect, challenge it. I'd cooperate. But they didn't want to do it like that.

Q. What did they do?

A. Those people wanted to pick out the cards, and that's why we had trouble.

Q. Well, what do you mean—how did they pick out the cards?

A. They brought a list along of the people that they wanted to challenge, and they picked out that card in the file.

Q. Were they challenging the Negroes and not the whites?

A. They were challenging whites, too.

Q. Well, in the 30 or so that they challenged, were they mostly Negroes?

A. Well, predominantly, yes.

Q. Do you recall how many were whites and how many were Negroes?

A. It was about—it was about 7 whites.

Q. And about how many Negroes?

[fol. 601] A. Well, the rest of the—I forget how many. We had thirty—37, I believe.

Q. All right, now, after—

A. But the Negroes' cards were, you know, more mistakes on the Negroes' cards.

Q. Were there whites that they did not challenge that had the same mistakes as the Negroes had?

A. Yes. The funny part, they had defects on their own cards—

Q. The Citizens Council members, you are talking about?

A. —and they got their cards and corrected them. That's where we had a real scrap.

Q. Did you, then, testify before Mr. Rainach's committee or were you called for appearance—

A. Yes, I was called before the committee. He—when I locked the door to him, you know, well, he created real trouble then. So then the whole—full committee met here, and I was called to testify before it.

Q. What did they tell you?

A. They gave me a clean bill of fare. All of those committee members, except Rainach, said they would have done the same thing. They all, you know, agreed that what he was trying to do was not right.

Q. I am going to show you Appendix A in the complaint, and ask you to look at that.

A. (The witness so did.)

Q. Do you recognize what that is?

[fol. 602] A. Yes.

Q. What is that?

A. Well, we had that little booklet on that.

Q. Where did you get the little booklet?

A. Mr. Rainach brought it down, those little papers.

Q. Did Mr. Rainach tell you to use the little cards?

A. You mean those Constitution cards?

Q. Yes.

A. No, he did not. He didn't have anything to say about that. And I wouldn't call them little. The ones we had were big.

Off the record discussion.

By Mr. Dunbaugh:

Q. This may refresh your recollection. I am going to show you a newspaper clipping from the Times Picayune of October 4th, 1959.

Mr. Dunbaugh: Mr. Kron, would you mind if I show it up so she can refresh her recollection.

Mr. Kron: No, I want to see what it is though.

Mr. Dunbaugh: I am going to direct her attention to a quotation over here. Do you see what I mean?

Mr. Kron: Yes.

By Mr. Dunbaugh:

Q. If you would read here, Mrs. Flournoy.

[fol. 603] Mr. Kron: May I suggest that you read the portion aloud that he is referring to, please.

Mr. Dunbaugh: Yes.

A. From here down or just this—just this or the whole—

By Mr. Dunbaugh:

Q. Well, let me look at it, please. Well, I am particularly interested in this quotation right here where you are quoted as:

A. "I am going to have this—" —"I am going to have this run according to law," she said. "Rainach told me if I can't—" —"if I can't fail them any other way, I could pull those Constitution reading cards on them. I wrote the attorney general about that and he said I could use them but not for discrimination."

Q. Does that refresh your recollection on that?

A. That's correct.

Q. Did Mr. Rainach tell you that you could pull those cards on them?

A. Yes, he did, but you understand, Mr. Rainach at that time was running for governor. And I have had no trouble since then. It was strictly Mr. Rainach, politically then.

Q. In 1959 you again had trouble with the Citizens Council?

A. Yes.

Q. What did they do at that time?

A. Well, they were challenging voters, and no one would [fol. 604] help except Hiram Wright and Stanley Smith, and—

Q. Were they again challenging Negroes and not whites?

A. They were challenging a few whites, but mostly Negroes.

Q. And were they—

A. And, you see, Stanley Smith was—that was politics, too, because Stanley was running for—wasn't it representative he was—

Mr. Crain: Senator.

A. Senator, that's right. He was running for senator, you see, so that was politics again, just local politics.

By Mr. Dunbaugh:

Q. Again, were they challenging Negroes whose cards had errors on them?

A. Yes.

Q. And not challenging the whites whose cards had the same errors on them?

A. Well, they were not challenging as many whites. They challenged a few whites, but not too many.

Q. Did they leave whites on the rolls who had made the same errors as the Negroes that they challenged?

A. Yes.

Mr. Kron: One moment, Mrs. Flournoy. Is this line of questioning directed on these challenges insofar as the interpretation test was concerned?

Mr. Dunbaugh: Is this on the record, do you want this—

[fol. 605] Mr. Kron: Yes.

Mr. Dunbaugh: All right. This line of questioning is toward the allegations in the complaint concerning the purges and the defining—

Mr. Kron: With respect to the interpretation test as such?

Mr. Dunbaugh: Yes.

A. Well, we were not using—

Mr. Kron: Wait, Mrs. Flournoy.

A. Excuse me.

Mr. Kron: At that point I would like to object to any testimony—or rather any questioning with respect to the purges conducted by the Citizens Council or any members thereof, which purges had nothing to do with the use of or the administration of the Constitutional interpretation tests, said questions being completely irrelevant and immaterial to the issue involved in this suit. Having registered said objection, I now advise Mrs. Flournoy to answer if she wishes. Now, what was the last question, please, ma'am?

[fol. 606] The reporter repeated the question.

A. Well, there was no question whatsoever of the cards in that mess. It was strictly political between, you know, that challenging—locally, at that.

By Mr. Dunbaugh:

Q. Well, when did you leave office?

A. March—this March, '62—March the 12th.

Q. Why did you leave office?

A. I had reached 65 and was retired.

Q. Did you leave office voluntarily?

A. No, not voluntarily, although my resignation was in for May. My resignation had gone in for May the 15th.

Q. Why did you leave sooner?

A. Oh, a little local political scramble—one wanted their man in, and so another wanted his man in—the two factions.

Q. Were you removed by—

A. The police jury—removed by the governor, yes.

Q. You were removed by the State Board of Registration?

A. That's right.

Q. Did they state any reasons for their removal?

A. None whatever.

Q. Did anyone express to you that they were dissatisfied with the way you were operating—

A. No.

Q. —your office?

A. No. This office has been run fair, and I think everyone [fol. 607] will tell you so. And I think Mr. Crain is doing a pretty good job there now, too.

Q. At the time that you were giving the tests on these little cards, did you use all of the cards?

A. Any of them that I happened—we kept them in the drawer, and we'd just take one out at random. We didn't pick any of them out.

Q. Did you study anything to determine what would be a reasonable interpretation?

A. No.

Q. Did you ask anyone to explain them to you beforehand?

A. Yes.

Q. Who did you speak with?

A. Oh, Mr. Rainach. I asked him, but most of them were, you know, I could understand them. Although some of them I understand the Supreme Court judges disagreed on it.

Q. Did you attend a meeting in Alexandria that was held by the State Board of Registration and the Joint Legislative Committee?

A. Yes.

Q. Who all was there?

A. I couldn't tell you.

Q. Who spoke at the meeting?

A. Rainach and Shaw and one or two local fellows.

Q. What did they say—did Mr. Rainach or Mr. Shaw say anything about using the tests?

[fol. 608] A. Well—

Q. Using the cards?

A. —I guess they did, but I don't know. It was the same old thing over and over. I didn't pay too much attention to it, but it was just a segregation talk.

Q. Did they pass out this booklet at that meeting?

A. Yes, yes.

Q. This—

A. And we—

Q. —I am referring to Appendix A, Voters' Qualification Laws in Louisiana?

A. Yes. We also got those in the mail.

Q. Did they pass out these Constitutional cards at that meeting?

A. No, we already had them.

Q. Why did you go to that meeting?

A. Well, all the registrars were, in a manner, required to go in this section. And so most of us went just to see what it was. I think the sheriffs were required to go; I know Mr. Jordan went. It was a big crowd there, and I don't really remember all of their speeches. My memory's not good on speeches.

Mr. Dunbaugh: All right. Mr. Kron?

By Mr. Kron:

Q. You referred earlier to an army officer and his wife?

A. Yes.

Q. They were white?

[fol. 609] A. Yes.

Q. Is it not so, Mrs. Flournoy, that during the time you were giving this interpretation test, that most of your objections came from white people?

A. Yes.

Q. During the time that you gave this test, you gave it to everyone—

A. Yes.

Q. —white and Negro—

A. Yes.

Q. —alike?

A. Yes.

Q. Could you tell us what percentages of the white persons failed the test?

A. Well, I could tell you to the number—three white people and one Negro.

Q. Failed?

A. That's right. We didn't have too many registrations during that time, you see, that I used those. And the white people would—one lady had filled out her card correct, and she said if she had to interpret that thing, she just wouldn't fool with it, so she walked out. And there was—there was a man—there was a man and two more women failed on that. The man wouldn't complete his card because he didn't understand that Constitution part, and he just left and therefore—have you had some do that, or did you use them?

(Mr. Crain did not reply.)

[fol. 610] Mr. Dunbaugh: Let's see.

By Mr. Kron:

Q. Now, when Mr. Rainach, Mr. Shaw and other members of the Citizens Council came into your office, you disagreed with their feelings—

A. With their method.

Q. —and with their method. And did you refuse to conduct your office according to their methods?

A. I did.

Q. You did not feel obliged to follow their methods, even though they were members of a legislative committee?

A. I didn't feel obliged.

Q. Why not?

A. Well, I didn't think that what they were trying to do was right.

Q. Was it legal?

A. I didn't think it would be legal, no.

Q. Was it discriminatory?

A. Yes.

Q. So therefore, you refused to discriminate?

A. I did.

Q. And during all of your time in operating this office, did you or did you not follow a policy of using the interpretation tests as a method of keeping Negroes off of the registration rolls—

A. No.

Q. —in Winn Parish?

[fol. 611] A. No. I felt that anyone who filled that card out right was entitled to vote—to be registered.

Q. White or black?

A. White or black.

Q. Now—

A. With no help.

Q. —when Mr. Rainach, according to the newspaper clipping you read aloud, requested you to use his methods, you then sought the advice of the attorney general?

A. I did.

Q. Could you tell me how you did that and what the results were, please?

A. I wrote Mr. Gremillion and explained it—about the cards and I got the reply that they could be used, but not for discrimination. And that was what I thought was right anyway.

Q. Why did you write to Mr. Gremillion?

A. Because Mr. Rainach wanted me to pull those hard cards on colored people.

Q. You did not follow that?

A. I did not.

Q. Did you consider Mr. Rainach your superior—

A. I didn't—

Q. —or the attorney general your superior?

A. I considered the attorney general my superior, but not Mr. Rainach.

[fol. 612] Q. I see.

A. I told Mr. Rainach I would not do it.

Q. Now, finally, has there, at any time during your administration in this office, been any method used, whether it be the interpretation test, the absolute compliance with filling out the card, or anything else to discriminate against a Negro who endeavored to register in this parish?

A. No.

Q. That's all.

Witness excused at 11:10 a.m.

[fol. 613]

PLAINTIFF'S EXHIBIT No. 21L

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Mrs. Wanda G. Gibson, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of the registrar of voters, in the Lincoln Parish Courthouse, Ruston, Louisiana, on the 9th day of October, 1962, commencing at 3:35 P. M.

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[fol. 614] The witness, MRS. WANDA G. GIBSON, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. State you name and address.
A. Mrs. Wanda G. Gibson, Cooktown Road, Ruston.
Q. And you are the registrar of voters of Lincoln Parish?
A. Yes, I am.
Q. How long have you held that position?
A. Since January—do I have to give the exact date?
Q. As close as you can.
A. January, 1961, it was the 26th or 27th.
Q. When you first took office what procedures did you use?
A. We had started using the—well, I started to say the same thing we are using now, but it wasn't. It was an interpretation that had been set up for all registrars to use.

Q. What form did this test take—I mean did you use a book or cards or what?

A. I used a book, the Laws of Louisiana, State Constitution.

Q. Did you have applicants—have each applicant read this?

A. Yes.

Q. Out loud?

A. Yes.

Q. And give you some explanation of it?

A. Yes.

[fol. 615] Q. Is that out loud?

A. Yes.

Q. Did you make any notation of the section that they were asked to read?

A. No.

Q. There was no record kept of that?

A. No, not unless they couldn't do it.

Q. There was a record kept of this section where they failed—

A. Yes.

Q. —but not if they passed?

A. Uh uh.

Q. Speak up with your answer, I'm not sure the reporter is getting it.

A. O. K., I'm sorry.

Q. We had better go back over those last two questions.

A. There was a record kept, but not if they passed it.

Q. Was there any record kept of the answers that they gave you?

A. Which do you mean?

Q. Well, either—if an applicant passed was there any record kept?

A. No, I just got through saying no. There was no record kept.

Q. If he failed was there a record kept of the answers that he gave—of the interpretation that he gave?

A. I may have some, but not all of them, I'm sure, of [fol. 616] what few didn't.

Q. What sort of a record would be kept of the answers they gave?

A. I was trying to think. I think I have some where they have tried to write their answer, because I could see that they didn't understand it well enough to say it aloud. So I asked them maybe they could do it better by writing it down.

Q. And where they did so you would save that?

A. Yes.

Q. I believe you've said that you used the book with the Louisiana Constitution in it?

A. Yes.

Q. Did you limit yourself to certain sections of the book?

A. Well, I wouldn't say limit, but I did use mostly the section on registration laws, because I know that better than any other, and it is more simple, I think. I didn't go and find something real hard for them to interpret. Something that the average person would know.

Q. When an applicant would come in to register, how would you determine what section you would ask them?

A. I just usually opened my book and found a law. I didn't say this person could interpret so and so or so and so, because all of them to me are about the same as far as interpretation.

Q. Do you remember offhand the sections that you gave, or if you referred to some book you have here, could you [fol. 617] tell us precisely which sections you asked them about?

A. Well, it's the section on registration that I used mostly. Should I get up and look that up and find it for the record here?

Mr. Madden: Yes.

A. Article 8, Section 1. I started with the registration laws, and I go all the way through. And you can tell where we've used them. You can tell the ones that have mostly been used. I've got them marked in my book. That's been most of them I have used.

Mr. Kron: Show that for the record Article 8, Sections 1 through 23.

A. I have used Article 1 from—you see, and these few here.

Mr. Kron: Article 1, Sections 1, 2, 3, 4—

A. And that's about the most of them that I have used.

By Mr. Dunbaugh:

Q. These are in the Bill of Rights of the Louisiana Constitution?

A. Yes.

By Mr. Kron:

Q. What was the reason you used those, Mrs. Gibson?

A. Because I understand them. I'm not a lawyer.

Q. What other reasons did you also say?

A. I figured that the average person can interpret that. I'm not an attorney.

[fol. 618] By Mr. Madden:

Q. You never did have them to interpret the 10th amendment to the Constitution of the United States, did you?

A. No, sir. I've used this book, because it's the one that was available to me in this office. I don't have the book with the Constitution of the United States in it.

By Mr. Dunbaugh:

Q. Did you discuss with anyone what section you should use, or did you decide for yourself that those were the sections that you should use?

A. I decided.

Q. With any interpretation that is given by an applicant, were you the sole judge as to whether or not that was an adequate interpretation?

A. Yes, I was.

Q. Did you ever vary your procedures, for instance, when there are great numbers of people trying to register just before an election?

A. No.

Q. Do you give a constitutional interpretation test now?

A. Do you mean an oral interpretation as we have—

Q. Yes.

A. That you're talking about?

Q. Yes.

A. No, we have a written test.

Q. Does the written test involve interpretation of some provision of the Constitution?

[fol. 619] Mr. Madden: If you don't know get your things and see. Show him what the test is.

A. It's a citizenship—we have a test with six different questions. They have a multiple choice answer.

By Mr. Dunbaugh:

Q. It is not a matter of reading and interpreting a section?

A. It is not. It's not an oral test. It's a written test, and they have their questions to answer. They have a multiple choice, and they have six on each card—four of them have to be right. Would you care to see these?

Q. No, thank you.

A. O. K. I wanted to be sure I have the same thing everybody else has.

Mr. Dunbaugh: O. K. I have no further questions.

By Mr. Kron:

Q. You have been here since January of 1961, you said?

A. Yes, sir, the latter part.

Q. Have you or have you not at any time during your administration used the constitutional interpretation test as a means of depriving a person of his right to register and vote because he was a Negro?

A. No, sir. If you'd look at my records you will find that—

Q. Do you keep a reject file?

A. Yes, sir.

Q. Would you be able, roughly, to estimate for me or to [fol. 620] tell me since you've been here in January of '61 how many total—totally how many people have been rejected for failure to pass the constitutional interpretation test?

A. Approximately 15.

Q. Of those 15, how many would be white and how many Negro?

A. There would probably be about 5 whites—now, this is just an estimate, and about 10 colored.

Q. All right. During that same period were there—of those 10 colored did any of those return and try to apply again?

A. Some that were rejected did return, not of this 10 I'm speaking of. This is my final—

Q. No, I mean of the 10 rejected because of their failure to pass the constitutional interpretation test, have any of those come back and been accepted?

A. I may have had one. I would like to go back and say that I rejected some the first time that came in, and I think this was mostly due to being nervous and scared, that did come back.

Q. On the constitutional test?

A. Yes. But now some of my rejects, of course, have not been for the constitutional test.

Q. Yes, but I'm confining purely to rejects on that—

A. I know.

Q. —basis.

[fol. 621] A. All right.

Q. How many Negroes do you have registered in this parish?

A. 713.

Q. And you have only rejected—how many Negroes have you registered since you have been in office, approximately?

A. About 700 of those, I think.

Q. All right. So that out of 700-plus there have only been 10 Negroes rejected—

A. Approximately.

Q. —for failure to pass the constitutional interpretation test?

A. Yes.

Mr. Kron: That's all.

Witness excused at 3:50 P.M.

[fol. 622]

PLAINTIFF'S EXHIBIT No. 21M

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff

versus

STATE OF LOUISIANA, et al., Defendants

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Deposition of MRS. W. A. HATTON, taken at instance of and on behalf of Plaintiff herein; on August 23, 1962, in Ouachita Parish Courthouse, Monroe, Louisiana.

[fol. 623] Examination.

By Mr. Dunbaugh:

Q. State your name and address, please?

A. Mrs. W. A. Hatton, Winnsboro, Louisiana.

Q. And you are the Registrar of Voters in Franklin Parish?

A. Yes, I am.

Q. How long have you been registrar?

A. Since 1942; November I believe.

Q. Are you a native of Franklin Parish?

A. Well, I've lived in Franklin Parish most of my life.

Q. When and where were you born?

A. I was born in Louisiana.

Q. What education do you have?

A. Just high school.

Q. Were you a registered voter in Franklin Parish at the time you took office?

A. I was deputy at the time I took office.

Q. You had been deputy before you became Registrar?

A. Yes.

Q. How long were you deputy?

A. I started to work August 1, 1940.

Q. So you had been deputy only a short while?

A. Well, yes.

Q. When you first took office, what was the registration procedure?

[fol. 624] A. Well, just gave him the application and had him sign the register book.

Q. And did your procedures change sometime after that?

A. Yes, the procedure changed in 1940, I believe.

Q. In 1940?

A. No; let's see, in '41.

Q. What did they change to?

A. Well, we just got a different form in 1941, from what we had in 1940.

Q. Did the procedure ever change from just filling out the form—

A. No.

Q. —to something more than just filling out the form?

The Witness: You mean just to register?

Mr. Dunbaugh: Yes.

A. There has been all the time, just the form and then you sign a register book.

Q. Now, that's not just what you do now?

A. No, we have a little more now.

Q. When did you add something to that?

A. Well, I believe it was maybe in 1958 or '59; I don't recall exactly the date.

Q. What did the registration procedure become at that time?

A. Well, we were urged by our convention and by our Police Jury to strictly go by the law, the registration law.

Q. What convention is this?

[fol. 625] A. The Registrar of Voters Convention.

Q. Who did the urging then?

A. Well, just the convention officials, whoever they might be, they change from year to year.

Q. Are you speaking now of the district meetings that were held by the Joint Legislative Committee?

A. No, I was speaking of the Registrar of Voters Convention.

Mr. Kron: Those are held once a year?

A. Once a year.

Mr. Kron: Each year?

A. Each year.

Q. Do you know who, at these meetings, urged that you do this?

A. No, I don't recall, it's been such a long time. It would just always be discussed and questions asked.

Q. You said that in about 1958 or 1959 the Police Jury urged you to change your requirements?

A. Not exactly to change my requirements.

Q. Well, what did they urge you to do?

A. They urged us to strictly go by the letter of the law.

Q. What form did this urging take?

A. Well, just to go by any part of the law that said do something, just to do that.

Q. Well, what I meant was, how did they let you know what they wanted?

A. Well, by coming in my office, or maybe I would be at a Police Jury meeting. I was closely connected with the [fol. 626] Police Jury.

Q. Did they say specifically that they wanted you to start using the interpretation test?

A. Well, that; not only that, but other things maybe that we hadn't strictly adhered to.

Q. What other things were those?

A. Well, just any portion of the law maybe that we wasn't going by strictly.

Q. For instance?

A. Well, I wouldn't know, just any portion of it.

Q. Did anyone else urge you to start using the interpretation test?

A. No, not that I recall; not that I recall.

Q. Did you feel that the system that you had been using prior to that was unsatisfactory?

A. Well, to me it was, but then you always have somebody that's ahead of you; you have your bosses to please,

and if they ask you to do something, you want to try to please them in what you're doing.

Q. To you the old system was satisfactory?

A. Well—

Mr. Kron: I object to the question on the grounds that after all, the matter of applying the law as it is written is not a matter for the wisdom or for the decision of the offi- [fol. 627] cer holding that position; it is a matter for the wisdom of the Legislature, and it becomes then the duty of the officeholder to apply the law.

In this instance, as the witness has already testified; where, through their conventions—the Registrars' annual conventions, and the Police Jury's—they were urged to apply the law strictly; it then became a matter of directive and job obligation, rather than her decision or within her discretion, as to whether it was a good practice or a bad practice.

Mr. Dunbaugh: Do you instruct the witness not to answer?

Mr. Kron: No, I'm not instructing the witness not to answer, just making an objection to the question.

Mr. Dunbaugh: All right.

Q. Did you say that you were satisfied with this system?

A. Well, it wasn't a matter of satisfaction with me, I was there to do a job.

Q. When you first undertook to give the interpretation [fol. 628] test, how did you go about learning what the test was and how you would give it?

A. Well, I just decided that a card system would be a better system for me, because I had a small office, and so I had the cards printed.

Q. Where did you get them printed?

A. Alexandria.

Q. First of all, Mrs. Hatton, let me show you a set of interpretation cards which are attached to the complaint in this case, and are marked "Defendants-B." Would you please look these over and tell me if those are the cards of which you are speaking?

A. Well, just glancing over it, it looks to be, maybe, something on the same order; I wouldn't say it is identical.

Q. Well, where did you get those cards, in the first place?

A. Well, now you're asking me a question I can't exactly answer. I don't recall whether the Attorney General's Office recommended us to do this, or just where.

Q. But you did not devise the cards yourself?

A. Well, not necessarily.

Q. I mean, they weren't something that you made up yourself?

A. No, I didn't make them up myself.

Q. Is it your recollection that you received them from either—

A. No, I didn't receive them from the Attorney General's Office, I said they might have been recommended, that these [fol. 629] cards might have been recommended; and anyway the Police Jury urged me, and where they got the forms from I wouldn't know.

Q. Did you receive them from the Police Jury or from—

A. Well, I don't recall whether I received them from the Police Jury or not, I remember that we come to a—there was a meeting held somewhere, I don't recall where the meeting was held; but anyway it was suggested that we carry this into effect by the card system.

Q. What sort of a meeting was this?

A. Well, I don't recall what kind of a meeting it was, I remember our President of the Police Jury and I went to this meeting.

Q. Who else was at the meeting?

A. I don't recall who was at the meeting. I think the Attorney General was there, and I don't recall who else.

Q. Were representatives of the State Board of Registration there?

A. Well, I wouldn't say, because I don't remember that.

Q. Was Mr. Rainach there?

A. I don't recall that either.

Q. Did anyone explain to you how these cards were to be used?

A. No, they didn't.

Q. Did you discuss with anyone—

A. I did not, I took the cards and—

Q. —or consult with anyone, the District Attorney or anyone?

A. With the District Attorney?

[fol. 630] Q. With the District Attorney or Police Jury Members, or anyone there?

A. It was discussed at the Police Jury meetings at different times.

Q. All right. So, when you started using these cards, then what did your procedure become at that time?

A. You mean just how I went about it?

Q. Well, did an applicant come in and fill out the LR-1 form first, or get the test card first, or what was the procedure for registration?

A. I don't remember about how I first began, whether I gave them the test card first, or whether they filled out the LR card first.

Q. Was the procedure, when you first started using the tests, roughly similar to what it is today?

A. Well, yes, it's similar to what it is today.

Q. And what is your procedure today?

A. Well, now, we have our cards just shuffled and stacked, there, because we have affidavit cards; then we have the test card, and then the LR card.

Q. So, then the applicant takes the oath first?

A. Takes the oath first.

Q. And then takes the interpretation test?

A. Then takes the interpretation test.

Q. And then fills out the LR-1 card?

[fol. 631] A. And then fills out the LR-1 form.

Q. If he does not pass the interpretation test, does he go on and fill out the LR-1 form?

A. Well, I couldn't say that I have just ever really turned anybody down on the test.

Mr. Kron: On the interpretation test?

A. On the interpretation test. Maybe they would get part of it right, and maybe they wouldn't get the LR card all right.

Q. Am I to understand, then, that they fill out all 3 cards before you make a decision as to whether or not they qualify?

A. Well, not necessarily.

Mr. Kron: Can I help in this?
Mr. Dunbaugh: Yes.

Examination.

By Mr. Kron:

Q. We're both trying to find out the same thing, and what we're trying to find out now is, and let me illustrate. Let's assume that a person first signs the oath card, and then you hand that person a constitutional test card—

A. I just hand them all at the same time.

Q. You hand them all; all right. Now, at what point do you go back to that applicant and look at the information; do you let that applicant complete the whole thing?

A. Yes.

Q. And then go back and inspect the thing?

[fol. 632] A. Yes.

Q. All of these papers, the three sets of cards?

A. Uh huh. (Affirmative.)

Q. Now, at that stage is when you make your decision—

A. Yes, it is, uh huh.

Q. —as to whether he is qualified to vote?

A. That's right.

Q. Whether or not he has filled out satisfactorily the LR-1, has answered satisfactorily the interpretation test card and has properly filled out the test card; is that correct?

A. That's correct.

Q. So, now to rehash that, you hand them all three cards at one time?

A. I hand them all the cards at one time.

Q. And then leave them to their own devices, and go back when they have completed, and look over the whole thing and make your decision?

A. Uh huh. (Affirmative.)

Mr. Kron: Is that what you were trying to get at?
Mr. Dunbaugh: Yes. Your answer was yes to that?
The Witness: Yes, it was.

Examination.

By Mr. Dunbaugh:

Q. Now, Mrs. Hatton, in the interpretation test, do they write their answers on these cards?

[fol. 633] A. Yes, they do. They write them under each clause.

Q. There are three clauses on each card?

A. That's right.

Q. And they are to write—

A. Under each one.

Q. —under each one?

A. Uh huh. (Affirmative.)

Q. What do you tell them to do with this card?

A. I tell them to take it and read it; just disregard that it's from the constitution, because it scares them; and I tell them just interpret the words, and then write it under each clause.

Q. How many do they have to answer correctly to your satisfaction to pass?

A. Well, I like for them to answer all three of them correct. A lot of times they don't though, but if they get as many as two correct I let it go at that.

Q. Would they pass if they get two correct and fail altogether to answer the third one?

A. Oh, yes, they would pass.

Q. Would anyone ever pass only answering one?

A. Well, that's a hard question to answer, because we get different answers on different cards and people interpret it a little different. Maybe the way I would interpret it wouldn't be just like they have it, but if they have one [fol. 634] that they interpret to my satisfaction; then if the other two are not just like I would, but if it's something in reason I would count it.

Q. If they answer only one and leave two blank—

A. No, I want them to—

Q. —would you then ask them to complete it?

A. Yes, I'd ask them to complete it, or I would give them a different card and let them try a different card maybe.

Q. How many different chances would you give them?

A. As many as they want.

Q. Is that true when there's a rush on for registration?

A. That's true at any time.

Q. When you first saw these cards, did you read them over?

A. Yes, I had to read them over.

Q. Did you understand them all, all the provisions that you read?

A. Well, maybe I didn't just by reading them the first time—

Q. What did you to do help you understand them?

A. —but most of them I did, because they were very simple.

Q. Did you do any studying or inquire of anyone about any of these provisions, in order to learn what they meant?

A. Well, I don't recall asking anyone.

Q. Does your set have 24 different cards in it?

A. Yes, it does.

Q. Do you use all 24 cards?

[fol. 635] A. Well, yes.

Q. How do you determine which card an applicant will get?

A. As I've already said, I just shuffle the cards, and whatever card I pick up is the one that the applicant gets. I have them stacked in a drawer, and as they come in I just get three cards and give them to them.

Q. How are they stacked in the drawer?

A. Just shuffled; I wouldn't know how.

Q. When you order them, do you order them by number?

A. Yes, I do.

Q. So that when you get a bundle, it's a particular card in the bundle?

A. That's right.

Q. How do you shuffle them; when do you shuffle them?

A. When I stack them to get the cards ready when we are expecting a rush. Of course, I keep them stacked all the time but when I'm expecting a rush, we'll stack maybe two or three hundred at a time.

Q. You take the same number of each card?

A. Not necessarily.

Q. You mix them together?

A. I don't have two numbers straight down maybe.

Q. Well, do you take more of one particular card or—

A. No, I just shuffle them all up and stack them.

Q. So that the supply of cards that you have consists of bundles of cards of different numbers, and then a shuffled [fol. 636] bundle that you have; is that right?

A. Well, not necessarily, I don't have any shuffled bundle, I just take a few out of each number that I have and then stack them, not stacking 2 or 3 of the same number together.

Q. So that they then are one on top of another in a pile?

A. Oh, yes.

Q. And you pick the top one off for the next applicant that comes in—

A. That's right.

Q. —whatever that card may be—

A. That's right.

Q. —regardless of who that applicant may be?

A. Yes.

Q. If the interpretation given by an applicant is not satisfactory, do you make a notation on the test card of the reason why it's unsatisfactory?

A. If it's unsatisfactory, or if they just don't have any meaning at all on the card as to what the clause is, I just give them a new card, give them a different card.

Q. Do you do this until he eventually gets one right?

A. Well, many times.

Q. Has anyone ever failed?

A. Well, not—I don't just disqualify anybody, they just maybe give up and go on. Maybe they'll come back at a [fol. 637] later date, and maybe they will fill it in, interpret the constitution OK.

Q. Do you save the rejected cards.

A. Well, as I say, I don't have any rejected cards.

Q. Well, you said that sometimes an applicant will not satisfactorily answer the questions and that you give him another card?

A. That's right.

Q. What do you do with the old card?

A. Well, I just stack them in a file.

Q. Do you save those?
A. Uh huh. (Affirmative)
Q. Then if he eventually gives up, do you save all of his cards?
A. Yes.

By Mr. Kron:

Q. Has it been that a person giving up has not come back?
A. Oh, no, they will come back.
Q. They always come back?
A. Always come back.
Q. You don't remember any instance where a person has been turned down and not registered ultimately, for failure to answer the questions on this constitutional test card?
A. No, I sure don't.

Examination.

By Mr. Dunbaugh:

Q. One of the provisions on the cards deals with change [fol. 638] of venue; are you familiar with that provision?
A. Yes.
Q. Do you understand what it means?
A. Yes.
Q. How did you learn what it meant?
A. Well, I just learned.
Q. When?
A. Just had the knowledge to know, I suppose; I haven't studied to figure it all out.
Q. Did you learn it after you saw the cards, or did you know it before you ever read the cards?
A. Well, now, I wouldn't say whether I did or not, I couldn't answer that question.
Q. Did you ever inquire of an attorney, or someone, as to what it means?
A. No, I didn't inquire of anybody, I sure did not.
Q. What are you seeking to have the applicant establish in answering these cards?

A. I'm not seeking to have him establish anything, I'm just carrying out the registration law. The laws says that you shall be able to interpret some portion of the constitution.

Q. Must he satisfy you that he understands what he reads?

A. Must he do what, now?

Q. Must he satisfy you that he understands what is written there?

A. Well, yes.

[fol. 639] Q. And how well must he understand it?

A. Just a reasonable interpretation.

Q. Is that understanding it as well as the average man?

A. Yes.

Q. The average person in your experience?

A. Yes.

Q. Are you the sole judge of whether or not an answer is satisfactory?

A. Yes.

Q. And was the decision to apply the test in the manner that you do apply it, your own decision?

A. It was my decision, yes.

Q. Do you have a Deputy?

A. Yes, I do.

Q. What's your deputy's name?

A. Mrs. Boudreaux.

Q. How long has she been your deputy?

A. I believe she started work there in 1948 or '49.

Q. What instructions have you given her in respect to applying the interpretation tests?

A. Well, she usually will hand the card to me and ask me to—ask me my decision on it.

Q. Does she sometimes pass on applications without checking with you?

A. Yes.

[fol. 640] Q. Is that true of some that are rejected, as well as some that are passed?

Mr. Kron: I object to that. The testimony shows that this lady has testified that insofar as the constitutional interpretation tests are concerned; no one in her memory has been rejected, either by her or her deputy.

Mr. Dunbaugh: That's all, thank you very much.

Examination.

By Mr. Kron:

Q. When you were asked the question about having read over the cards, and whether you had read over the cards and studied them, your answer was that you didn't ask anyone about them; as a matter of fact, however, you did read over every one of those cards?

A. Yes, I did.

Q. Several times?

A. Yes.

Q. And in each one of the clauses, you came to some conclusion as to what it meant in your own mind?

A. That's right, I sure did.

Q. And you then, in your own mind, established that as a reasonable requirement?

A. Reasonable.

[fol. 641] Q. Now, with respect to the average man; is it not a fact that your requirements are far below what you would expect of an average man, since there has been no one rejected on this test?

A. That's right.

Q. Have you or have you not at any time selected a particular card for any particular applicant, with a view to making it more difficult for him to register?

A. No, I have not.

Q. You select these groups of cards as they are stacked in the drawer?

A. Yes sir.

Q. And you do not determine the name and color of the applicant, and then select the cards to fit that situation?

A. No, I do not.

Q. How many white registrants do you have in your parish?

A. I believe we have about 4,600 now.

Q. All right. How many negroes are registered there?

A. A hundred and fifty (150).

Q. Why are there not more negroes registered?

A. Well, I wouldn't know that; they just haven't come. We haven't had an election that has really urged them to come in and register.

Q. How long have these 150 been on the rolls, more or less?

A. Well, since 1961. See, this was the beginning of the [fol. 642] new registration. We're on the periodical registration.

Q. All right. How many negroes did you have on the rolls prior to the expiration of the old four-year system?

A. I believe we had between 350 and 400.

Q. So that, as a fact, the only reason that there are 150 negroes is that that's only how many have come in to register?

A. Have come in, that's right.

Q. Have you rejected any negroes?

A. I have not.

Q. Since 1961?

A. No, I haven't.

Q. You have not rejected a single negro applicant?

A. No, I have not.

Mr. Kron: That's all we have.

Re-examination.

By Mr. Dunbaugh:

Q. You're on periodic registration?

A. Yes.

Q. And you started giving this interpretation test during the last registration period, is that correct?

Mr. Kron: During the 1950-1960 period.

Mr. Dunbaugh: It would be 1957.

The Witness: 1957 through 1960.

Mr. Kron: 1957-1960, right.

A. Yes, it was during that time.

[fol. 643] Q. If someone applied for registration during that period, at the time when you were giving the interpretation test and passed it satisfactorily; then when he applies for reregistration during the 1961-64 period, does he have to take the test again?

A. Yes, he does.

Mr. Dunbaugh: That's all.

Mr. Kron: That'll be all, Mrs. Hatton.

Witness excused.

[fol. 644]

PLAINTIFF'S EXHIBIT No. 21N

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Mrs. J. E. Jones, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of the registrar of voters, in the Lincoln Parish Courthouse, Ruston, Louisiana, on the 9th day of October, 1962, commencing at 3:05 P. M.

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[fol. 645] The witness, MRS. J. E. JONES, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. Please state your name and address.
A. Do you want my maiden name?
Q. Well, whatever—
A. Mrs. J. E. Jones is the commission that I was under.
Q. Mrs. Jones, where do you live?
A. Ruston—Glendale Drive, Ruston.
Q. Were you formally the registrar of voters here in Lincoln Parish?
A. Yes.
Q. When did you hold that office?
A. Since 1940 through—up through 1961.

Q. Then did you retire in 1961?
A. That's right.

Mr. Madden: 1960, wasn't it, Mrs. Jones?

A. January, 1961, it was up until then.

By Mr. Dunbaugh:

Q. When you first assumed the office, what procedures did you use for registering applicants?

A. Well, I had the registration law in a little pamphlet, and a form that was printed step by step according to the law.

Q. What I'm getting at is, if an applicant came to register back in 1940, what did he have to do to become registered? [fol. 646] A. He had to—just whatever that form was, I can't recall.

Q. The L.R. 1 form you're speaking of?

A. Yes.

Q. He just filled out the form?

A. Whatever it required. I would have to look at one of them before I would know.

Q. When you first became registrar, did you ever ask any applicants to read and interpret any provision of the Constitution?

A. No, that was my—I was under bond to try to—to know who would be competent to register or whether they were qualified. That's the thing I had to do, was to judge whether or not they were competent.

Q. Well, in judging that, when you were first registrar what did you judge, just an application form, or did you have them read something to you or anything like that?

A. We didn't have it drawn up as such then, but I always had them to understand—they had to read, they had to write, and had to interpret a portion if I read it. Now, that was on that application should I see fit to read it, but it didn't demand that I read it, but if I'd see fit then I would. If I doubted whether they were competent to be a voter.

Q. Sometimes later than that—sometime after 1940 did you then start requiring everybody to read and interpret [fol. 647] the Constitution?

A. Yes, because of pressure we clearly followed the law and let each person know and read for themselves—I begun to pass the law—the passages out to them and let them read them, so they wouldn't think it was just me pouring it on them. It was necessary to make it clear to them.

Q. What did you have them read at that time?

A. Well, I would just pick out just most any little passage.

Q. Out of a book?

A. Out of the Constitution.

Q. Was that the Constitution of the United States or the Constitution of the state of Louisiana?

A. Of the state, I used that.

Q. Did you have a bound book with the Constitution in it?

A. Yes.

Q. And then you just opened the book and asked them to read part of it?

A. Yes.

Q. Did you have them do anything else besides read it?

A. They'd always tell me what it meant following that.

Q. Did they have to read it out loud?

A. Yes.

Q. Did you make any record of the section that you asked them to read?

A. No, sir.

[fol. 648] Q. Did you make any record of the answers that they gave, what their meaning was?

A. No, sir. Why would I, when they've already sworn me in to do it—to be responsible for it, what would I want to do all of that for? That wasn't required of me.

Q. We are not criticizing what you did, Mrs. Jones. We're just trying to find out what you did in there. I'm not—let's see—how did you decide what particular paragraph you would have them read?

A. I didn't decide. I just turned through there, and just anything I turned on and wanted to I just went ahead, and they would read it.

Q. Did you use pretty much the same paragraphs all the time?

A. No, I didn't.

Q. So that any applicant who walked in might be required to explain any provision of the Louisiana Constitution?

A. Oh, I always gave them in it something simple that they would actually know—supposed to know, you see—

Q. You didn't—

A. —being fair to the thing I just always let them—

Q. You didn't use all of the sections?

A. No.

Q. Do you remember which ones you used—

A. No, no—

Q. —and which ones you didn't use?

A. —I don't remember that.

[fol. 649] Q. Did you have a set list of sections that you asked about?

A. Oh, I had my own little pamphlet, but I don't know where it is now, and I usually checked something that I—one that they sort of would know readily, kind of, but I wouldn't give them the same one each time.

Q. How did you pick those out that you did use?

A. I just told you how I picked those out.

Q. I meant did you read through the whole Constitution and pick out a few that you thought would be good?

A. I picked out what I thought would be good for that particular individual.

Q. Now, you've said that when you first took office you didn't have everybody do this?

A. I couldn't tell you how few registrants were here when I came in. You just don't know. They didn't everybody try to register then that wasn't qualified. That was only when the needs arrived that I started doing that.

Q. What need is this?

A. Well, you just ought to have been here and see them. They'd bring in the applications—have them all written off, mimeographed forms in their laps or in their hands, or something—just bushels of them. They'd give them to them out at the churches, and they had learned them off by heart. If I didn't have them to read it, well, I wouldn't—and to interpret those passages I never would know, because they were copied.

[fol. 650] Q. When did you first start using the tests and when did you make this change you are—

A. Oh, I don't know, sir. I just don't.

Q. Can you relate it to some other event?

A. No, no.

Q. Was there a purge of the voter registration rolls here in Lincoln Parish?

A. Oh, not when I started. I've had my work completely in my charge. I've been responsible for every bit of it. And I've always tried to let my record show for itself, and there has been no pressure on nothing, and whenever I said one wasn't qualified he wasn't qualified.

Q. Wasn't there a time when some people came in and challenged some of the voters that were on your rolls?

A. I don't know how many times—well, I guess there have been more than one time.

Q. Let me direct your attention to 1956—in the fall of 1956, just before the second Eisenhower-Stevenson election, didn't some people come into the office then and challenge the registration status of a great many voters?

A. Are you speaking of the Citizens Councils?

Q. Yes, I am.

A. Yes, they did. They came in and asked permission to do so.

[fol. 651] Q. Was it shortly after that that you started to give the tests to everyone?

A. Oh, no, I've been running this as best I could ever since I've been in here.

Q. When did you start giving the tests to everybody, that's what I'm trying to find out?

A. I don't know, sir. I don't recall.

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Mrs. Jones, I wish you would try very hard to search your memory on this and see if you could tell us when you started to give this test to all applicants?

A. I can't. I've just tried to erase all of that from my mind when I went out of here. I've been out about two years, and I can't remember that.

By Mr. Madden:

Q. Tell them how old you are, Mrs. Jones.
A. How old I am?
Q. Yes.
A. Do you want me to tell them?
Q. You're not ashamed of your age.
A. Oh, no.
Q. Tell them how old you are.
A. Just in a few days I'm going to be 68.
Q. That would show that you would not remember too well.
A. Oh, good gracious.

[fol. 652] By Mr. Dunbaugh:

Q. Have you been in this parish all of your life?
A. No, sir, I came here in 1930.
Q. Whereabouts are you from?
A. From the adjoining parish. I was born and reared there.
Q. Which one is that?
A. Bienville.
Q. Bienville Parish. How much education do you have?
A. I have been to college two terms. How much do you have? No, I consider I have plenty of experience there, now, Mr. Dunbaugh. I don't—I can understand when the other fellow understands, too.
Q. Going back to the purge in 1956, do you recall about how many voters were challenged?
A. No, I sure don't, now, I sure don't.
Q. By the Citizens Council?
A. I don't—I do not.
Q. Were they mostly whites or mostly Negroes?
A. They were just all the way from Tech professors to the state auditor to the—everybody you can think of—everybody that was wrong was checked. They checked them. I didn't have anything to do with it.
Q. Did the Citizens Council tell you in advance that they were going to check the records?
A. Asked me, that's right.
Q. When did they tell you that?

A. You mean the—

[fol. 653] Q. When did they tell you that they were going to check your records?

A. Well, I just got a notice of the proper time that that thing was supposed to have been done. I had a notice that they would like to see the records when it wouldn't disturb me, and they took it step by step as it goes.

Q. Did you attend a meeting of theirs?

A. No, I never went to their meetings. I had to be here when they came is all.

Q. I see. Now, you've said that at first—this is in the early part of the time when you were registrar—that you gave the tests to some applicants, but not to other applicants, is that right?

A. That's right, because I could tell when they were qualified and when they weren't, so far as reading and writing and interpreting.

Q. How would you determine which ones you would give the test to and which ones you wouldn't?

A. Now, listen here, I've been so patient with my folks, I'd let them try, try and try again, all the time, and then when they just can't, they can't. That's the kind I'd have to—just have to some way to determine whether or not—you just can't fill it out for them. You have to know how to do, when to stop and say it just won't do. Have you ever been registrar?

Q. No, but I'm not sure that I understand—

A. I wish everybody had to be registrar one time.

[fol. 654] Q. I'm still not sure that it's clear as to how you determined which people you gave the test to and which ones you didn't give the test to?

A. You say you're not sure?

Q. I'm not sure how you determined in your own mind to give the test to one person, but not to another.

A. Well, when the people of Lincoln Parish gave me this position they—I accepted it and was put under bond. They really thought I could handle it, or they wouldn't have let me have been the registrar. So I have tried to do exactly what the people were expecting me to do, and that is follow that law. So that's the way I've done. I haven't ever been reprimanded or nothing. How did you get the idea I had?

(Off-the-record discussion.)

Mr. Dunbaugh: No further questions. Mr. Kron?
Mr. Kron: No questions.

By Mr. Madden:

Q. Mrs. Jones, as a matter of fact, when you first became registrar, you pretty well knew everybody in Lincoln Parish at that time or had spoken to them?

A. Well, that's right.

Q. You knew it was foolish to give a test, say, to me as an attorney who came here to register or—

A. I just used my common sense.

Q. Used your common sense?

[fol. 655] A. And in that way—

Q. And then when the flood gates opened and said everybody can be registered, the ignorant, the uninformed, the unintelligent, and things of that nature, then you said, "Well, now is the time to start giving the tests," isn't that right?

A. That's right. It has always been in the law.

Q. It was in the law—

A. Always.

Q. But you hadn't applied the test because you didn't have that flood gate open and these people rushing in on you?

A. Well, it just wasn't necessary.

Q. It just wasn't necessary?

A. No, sir.

Q. In fact of the business it wasn't necessary until Harry Truman started encouraging everybody to register, isn't that right—he and Roosevelt?

A. I don't remember who did it, who started it—whoever did start it ended up with—up there meeting theirselves coming back with the whole load.

Q. Then you started to applying the test—after everybody just started piling in on you, you started—the people you didn't know, including white and colored—if you didn't know them, you started applying the test?

A. Well, they had the colored lined up here. They just hauled them in by the busloads, and so, something had to be [fol. 656] done. Some type of test had to come about, be-

cause they taught them the night before how to fill them out.

By Mr. Dunbaugh:

Q. And that's when you started giving the test?

A. No, no, if it was necessary before that, I had been at it all the time, Mr. Ragan. There has been a lot of people—it's not just colored people, there have been a lot of people that couldn't register under my registration.

By Mr. Madden:

Q. That's right. And your records will so indicate?

A. Oh, yes, you can go look—go hunt them up, if you want to do that.

Mr. Madden: I have no further questions.

Witness excused at 3:30 P.M.

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[fol. 657]

PLAINTIFF'S EXHIBIT No. 21-O

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Charles S. Kilbourne, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana, commencing at 10:05 o'clock A. M., on the 25th day of August, 1962.

[fol. 658] The record should show that the deposition of Mr. Kilbourne is proceeding in the presence of Mr. Crouch, the Registrar of Voters of St. Helena Parish.

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The witness, CHARLES S. KILBOURNE, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. What is your name and address?
A. Charles S. Kilbourne, Clinton, Louisiana.
Q. Were you formerly the Registrar of Voters—
A. I was.
Q. —of East Feliciana Parish?
A. Yes.
Q. When did you become Registrar of Voters?
A. Sometime in the month of December, 1949. It was a split month, I don't remember the exact date.
Q. Had you been deputy registrar prior to that time?
A. I had.
Q. For how long?
A. About two years and a half or a little more—since the spring of '47.
Q. When did you leave the office?
A. The last of January or the first of February of '58.
Q. Why did you leave the office?
A. Well, the governor called on me to resign. He had absolute discretion in the matter. You hold it at his pleasure [fol. 659] —at the pleasure of the governor.
Q. Had you been asked by anyone else to resign?
A. No, not personally.
Q. Had anyone else sought to have you change your registration policies?
A. They did.
Q. Who was that?
A. Well, they were the officers of the Citizens Council, as soon as it was organized, asked me to change my policy. In fact, demanded, not asked.
Q. Who was that?
A. Well, there was W. C. Percy was representative there at the time. He was the—I think chairman of the organization.

Q. Anyone else?

A. Well, I had a delegation from the organization visit me in the office one evening, but a small group. I couldn't tell you now who all of them were that came. They asked me questions about my policy, and disagreed with me on it.

Q. Did anyone from the State Sovereignty Commission come to see you?

A. No, not that I know of.

Q. Or from the Joint Legislative Committee on segregation?

A. We didn't have that then. I don't think that—as far as I know it wasn't in existence then.

Q. Mr. Rainach or Mr. Shaw?

[fol. 660] A. (The witness did not reply.)

Q. What were your registration procedures? You answered no to whether or not Mr. Rainach or Mr. Shaw—

A. Let me qualify this by something that's never been brought out. We changed from 4 years of permanent registration less than 4 years after I taken office, and approximately forty or fifty per cent of the names on the roll at the end of my term were those registered by my predecessor who had merely been blanketed in. Under a simple procedure I had some converting 4 years by mailing them out a form to merely sign and mail back. Not much if any more than half of them were actually mine. They were Mr. Riley my predecessor's, who had blanketed them in. Now, the question again, sir?

Q. What were the procedures of registration that you—

A. Well, our procedure was give them a card and let them fill it out. As most of them—it seems that even educated people, I've known even school teachers, seems to get in a panic at the mere sight of a printed form. They'd usually tremble and you'd have to help them a little bit, you know. I made one difference between my registration and Mr. Riley. Mr. Riley, my predecessor, would fill out the card in his own handwriting and merely let them sign it if anybody said that they had left their glasses at home, or any excuse as that. I never did that unless they come as a blind man, or some disability of some kind that would [fol. 661] qualify them as an illiterate. And that—that was one change I made in the procedure from what he had had.

I made, when a person could read and write, to fill it out in their own handwriting and sign it.

Q. Did you require applicants for registration to use—to interpret a provision of the Constitution?

A. No. Just before I went out of office I got instructions that I should do that.

Q. From whom did you get these instructions?

A. My recollection is that it was from Mr. Fowler, the State Director, I believe.

Q. Director of the State Board of Registration?

A. That's my recollection, but I understood it to be only for totally illiterate. I don't remember using it but twice, and that for people who wanted to sign by mark, who were absolutely illiterate. I would never dream of using it for a person who could read and write, even then. I may have misunderstood him, but that's my interpretation.

Q. When you gave the test to illiterates, how did you give it?

A. Well, there were only two times I did that at the very end. I simply had a copy of the Constitution. I had nothing to go by, no forms, no advice. I simply picked out some general question about it that I would think that any reasonably informed person who knows how to vote would [fol. 662] answer, like whether it consists of a republican form of government, or something of that sort, or just some general question that I made up. I had nothing to go on. As I say, I don't remember using it but twice, and that was for total illiterates. My recollection is that one answered it sensibly and the other couldn't. We were not furnished with any form to go by at that time.

Q. Why didn't you give the test?

A. Well, it had never been done. I had worked as a deputy. I had never heard of it being—I visited other offices in other parishes, I had never known it to be done. I visited West Feliciana where my cousin was registrar and St. Helena where I was acquainted with a man who had recently come into office. He visited me and I returned the visit. I never knew—in Baton Rouge I knew Joseph Smith well, he was a native here of this parish. Nobody had ever done it that I knew of.

Mr. Dunbaugh: Mr. Kron?
Mr. Kron: No questions.

Witness excused at 10:25 A. M.

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[fol. 663]

PLAINTIFF'S EXHIBIT NO. 21P

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

---

UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

---

The deposition of Mrs. Margaret M. Larche, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the office of the registrar of voters, courthouse, Bastrop, Louisiana, on the 10th day of October, 1962, commencing at 11:40 A.M.

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[fol. 664] The witness, MRS. MARGARET M. LARCHE, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. Please state your name.
A. Margaret Larche.
Q. Mrs. Larche, what is your address?
A. 502 West Hickory Street, Bastrop, Louisiana.
Q. Are you the registrar of voters for Morehouse Parish?
A. I am.
Q. How long have you held that position?
A. 19 years.
Q. When you first took the office of registrar of voters what procedures did you adopt?

A. Well, I used the same procedures as the registrar that I had succeeded in the job. They just came in and I asked who they were, and gave them a card, and they filled it out, and that was all there was to it then at that time.

Q. Did you later change the procedures?

A. Yes, sir.

Q. When did you do that?

A. In 1957, January 1.

Q. What procedures did you adopt at that time?

A. Then we began to go by the Louisiana registration law, which was the person came in, and he was identified to me, and then we gave them the card, and they filled [fol. 665] out their card. And I have a Constitution of the United States, and then we gave them that, and they read just a portion of it and told me in their own words what they had read and that was it, in '57.

Q. How long did you keep using that procedure?

A. I have done that up until the present change about a month ago.

Q. I believe you said you used a copy of the United States Constitution?

A. Yes, sir.

Q. How did you select the particular section you would ask an applicant on?

A. Just opened the book, and I had a clip on it—to the United States Constitution, and I would just open it, and just take any at random—you know, and just put it down before the person and say, "Would you read and interpret that to me?" To the voter.

Q. Would you ask the applicant to read it out loud?

A. I told them it was perfectly all right, whichever one they preferred to do, if they wanted to read it out loud or if they wanted to read it to themselves, just explain to me what they had read.

Q. Was any record kept of the section that you asked them to read?

A. No, sir. Now, if they failed it, we wrote on the back of their card the part that we had asked them that they could not read or interpret, and that was written on the [fol. 666] back of their registration card in the place for remarks.

Q. But if they passed no record was kept?

A. No, sir.

Q. If they passed was any record kept of the interpretation they gave?

A. No.

Q. And if they failed was any record kept of the interpretation that they gave?

A. Yes.

Q. What record was made of that?

A. The one on the back of the card.

Q. Was that simply a record of what section they were asked to interpret or—

A. What we asked them, uh-huh.

Q. But there was no record of what they gave as their interpretation?

A. Oh, no.

Q. Did you over the years ask about every section in the Constitution or did you limit it to particular sections?

A. Well, it was just at random. I'm sure over that period of time we took most every one of them. Of course, there were some of them that were—you know, that maybe I didn't understand too well, so certainly I didn't use those.

Q. Would you be able to recall or do you have a record of which sections you asked about most frequently?

A. I have the book if you would like to see it.

[fol. 667] Q. If it would help you to refresh your recollection, yes.

A. (The witness obtained same.) Any of these, see? We just used all of them.

Q. Now, you're referring to all of the Constitution?

A. Yes.

Q. Were there any particular ones here that you did not use or used less frequently than others?

A. Oh, I don't remember. We just used all of them.

Q. Did you ever ask an applicant to interpret a provision of the Louisiana Constitution?

A. No. We just used strictly the Constitution of the United States of America.

Q. Have you ever studied anything other than the text of the Constitution?

A. No.

Q. In order to help you make up your own mind as to what each of these sections meant?

A. Well, I had—when we first started this Judge Odom helped me a lot with it. He is deceased now. He was a retired judge who was a resident of this parish.

Q. How did he help you?

A. I would ask him to explain different things that I didn't understand about it, you know, out of office hours. But now let me clear you up with this one thing, we didn't —I didn't ask the person to read something then I wouldn't take it and ask them a lot of questions. They would, for in- [fol. 668] stance, read "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." And I would say to them, "Just explain to me what you read." I didn't ask them a lot of questions.

Q. Yes, ma'am. If an applicant in reading a section did not understand a particular word, would you define the word for them?

A. We did in a lot of cases, yes. Or we have had applicants who would read one and would say, "Can I pick another one to read?" And we would say, "Yes, choose another one." And they would choose it.

Q. The applicant could choose whatever section they wanted?

A. Some of them, if they had one, and they'd say, "I've got a hard one; let me get another one," well, they would pick another one.

Q. How many picks would they get before they—

A. Oh, I don't remember.

Q. —before you rejected them?

A. I don't remember.

Q. Well, if an applicant failed to interpret it correctly the first time, would you offer them an opportunity to interpret another section right then in connection with the same application?

A. Well, as I say you could really—you could tell if the person could read—

Q. Yes.

Q. —you know, and if he couldn't read, there wasn't any [fol. 669] point in going on, you know. I mean when you

give somebody a book and say, "Would you, you know, like to read it out loud, you know, or to yourself, and tell me what you read?" Well, when they can't—when they start telling you something that doesn't even pertain to that article, well, you know that they couldn't read. And then we have had them that I've said, "Well, sir, you read so and so out loud." In that case, well then, I could see they couldn't read. Well, there was no use to go further.

Q. In effect then, you were testing just to see if they were able to read?

A. And write.

Q. And write. Did you require applicants to write anything other than the application form?

A. No, not in '57, other than fill out their L.R. form 1.

Q. Why did you start using the test?

A. On the advice of my district attorney.

Q. Mr. Lassiter?

A. Yes.

Q. Did he explain to you why he thought it should be used?

A. No.

Q. When you first became registrar were Negroes permitted to vote in the primary elections?

A. Yes, sir, there were several qualified colored registrants in Morehouse Parish when I was registrar.

Q. For the general elections, but I meant in the Demo-
[fol. 670] cratic primary elections?

A. They voted in all elections. Their names were on the poll lists. Now, whether they cast their vote I do not know, but I assume that they did. Their names were sent to the polls, where they could have voted had they wanted to.

Mr. Dunbaugh: I have no further questions.

By Mr. Kron:

Q. Mrs. Larche, you have stated you selected the sections of the federal Constitution?

A. Yes.

Q. At random?

A. Yes.

Q. Did you at any time choose a particular section to give to a particular person—

A. No.

Q. —in order to make it more difficult for that person to register?

A. Indeed not.

Q. And it was always your policy that if a person could not interpret the one shown to him by you, you permitted him once, twice, or as the occasion would warrant, to select another section of his own choice?

A. Yes, sir.

Q. In listening to your answers, am I correct in saying that your purpose was to make the test simple?

A. As simple as I could make it.

[fol. 671] Q. And one that the average person could pass?

A. Yes, sir.

Q. Let's select a period of time, say, for instance the entire year of 1960, would you be able to estimate for me how many persons were rejected as applicants for registration for reasons of the interpretation test alone during, say, 1960?

A. There wouldn't be too many, but I couldn't tell you exactly unless I got up and counted them. I have all of my rejected applications.

Q. Would it be too much trouble to check that—would it take too long?

A. (The witness produced same.)

Q. To refresh you now, and to repeat the question, selecting a period, the year 1960, how many persons—applicants for registration did you reject for failure to pass the interpretation test?

A. Two.

Q. Of those two, how many were white and how many were colored?

A. One was white and one was colored.

Q. There were no others during that entire year—

A. No, sir.

Q. —who failed to register because they could not pass the interpretation test?

A. That's right.

Q. Since 1957 when you began to give the constitutional [fol. 672] interpretation test have you at any time used this test as a means to prevent Negroes from registering?

A. No, sir.

Q. During all of your time as registrar in this parish, have you ever been advised, instructed or directed by anyone—a private citizen, public official, board of registration, et cetera, or anyone else—to use the interpretation test as a means of disenfranchising Negro applicants for registration?

A. No, sir.

Mr. Kron: That's all.

By Mr. Dunbaugh:

Q. At all times during the period 1957 until you stopped using this test, was the applicant required first to fill out the L.R. 1 form and then to take the test?

A. No, sir, they read and interpreted a portion of their test and then filled out their card.

Q. So that if they failed the test were there instances when no record was kept?

A. There were instances, uh-huh, I'm sure there were, because you know in periodical registration we have quite a few, you know, the last 2 or 3 days, and we get in a rush on those days.

Q. So that there may have been times even in 1960 in addition to the two that you mentioned—

A. Well, there could have been, but I don't remember.

Q. —during which an applicant would come in, would [fol. 673] be rejected on the test and no record be made of it?

A. There could have been, but I don't remember. We haven't turned down too many, I tell you.

Q. During the period 1961 through 1964, the current registration period, have you required each person to take the test who took the test during the last period and passed it?

A. We do that under periodical registration, sir. I am not under permanent. Our records at the end of that four years are null and void, so we start over new.

Q. So that it would be possible that someone who passed the interpretation test between 1957 and 1960 could fail it during the period 1961 to the present?

A. Well, it's possible, but I don't recall of anyone who has, you know.

By Mr. Kron:

Q. That's important. Although that is theoretically possible, in your memory has that actually happened?
A. Not that I can recall.
Q. O.K.

Mr. Dunbaugh: That's all.

By Mr. Kron:

Q. One final question. During the period 1960, your records reflect two persons who were rejected for this reason, and under your system of giving the interpretation test first, it also is possible there could have been others and there be no record of it. In your actual memory, do you [fol. 674] recall during the period 1960 anyone else having failed to become a registered voter because of failing the interpretation test, other than these two?
A. No.
Q. You do not?
A. No.

Mr. Kron: That's all.

Witness excused at 12:03 P.M.

[fol. 675]

PLAINTIFF'S EXHIBIT No. 21Q

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of LOUISE RISER LINTON, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the Post Office Building, Homer, Louisiana, on the 9th day of October, 1962, commencing at 11:45 A. M.

[fol. 675a]

APPEARANCES:

Frank M. Dunbaugh, Esq., Attorney, Department of Justice, Washington, D. C., for Plaintiff.

Harry Kron, Esq., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, for Defendants.

A. B. Atkins, Jr., Esq., North Main Street, Homer, Louisiana, and William M. Shaw, Esq., 515 South Main Street, Homer, Louisiana, for Louise Riser Linton, Witness.

[fol. 676] STIPULATION

It is stipulated between Counsel for the United States of America and Counsel for the State of Louisiana and other defendants that the original transcript upon completion should be delivered to Mr. Kron, who will make arrangements for it being read and signed by the witness, and who

will return it to the court reporter for certification and filing in the Court.

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[fol. 677] The witness, LOUISE RISER LINTON, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. Will you state your name, please?
A. Mrs. Louise Riser Linton.
Q. What is your address?
A. 225 Beardsley, Homer, Louisiana.
Q. Are you the registrar of voters of Claiborne Parish, Louisiana?
A. I am.
Q. How long have you held that position?
A. Since September, 1940.
Q. Were you a registered voter before you took the job as registrar?
A. The very purpose of this case is to have declared illegal the voter registration laws of this state, which have been in effect since before most of the individuals participating in this case was born. If these laws are held unconstitutional, then it will mean that every registrar who has obeyed the state laws has been guilty of a federal crime. Under these circumstances, it is obvious that any conscientious registrar who answers questions pertaining to the issues of this case, will be incriminating himself. Therefore, I respectfully decline to answer this question on the grounds that my answer might tend to incriminate me, and plead [fol. 678] my constitutional privilege against self-incrimination.
Q. Mrs. Linton, you are acting under advice of counsel?
A. Yes.

Mr. Shaw: I might add that I have advised her not to answer any of your questions pertaining to this case, because the very nature of the case is such that anything she might answer would help to incriminate her either under the state or federal laws, if there is any validity whatsoever to the case that has been filed by the federal government.

By Mr. Dunbaugh:

Q. If I would ask any further questions you would take the same privilege?

A. I would.

Q. Okay.

Witness excused at 11:50 A. M.

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[fol. 679]

STATE OF LOUISIANA:
PARISH OF EAST BATON ROUGE:

I, Janet L. Parker, Reporter within and for the Parish of East Baton Rouge, State of Louisiana, do hereby certify as follows:

That the witness, Louise Riser Linton, was duly sworn by me, Special Officer of the United States District Court for the Eastern District of Louisiana, to testify to the truth, the whole truth, and nothing but the truth, and that the foregoing deposition was taken by me and reduced to typewriting by me.

That the aforesaid deposition constitutes a true record of the testimony given by the witness.

That Frank M. Dunbaugh, Esq., Attorney, Department of Justice, Washington, D. C., represented the plaintiff, Harry Kron, Esq., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, represented the defendants, and A. B. Atkins, Jr., Esq., North Main Street, Homer, Louisiana, and William Shaw, Esq., 515 South Main Street, Homer, Louisiana, represented Louise Riser Linton, witness, and that each was present during the entire examination.

That the deposition was held in the Post Office Building, Homer, Louisiana, on the 9th day of October, 1962, commencing at 11:45 A. M.

[fol. 680] That I am not an attorney or counsel for any of the parties, nor am I a relative or an employee of any attor-

ney or counsel connected with this action, nor am I financially interested in this action.

Baton Rouge, Louisiana, this 17th day of November, 1962.

/s/ JANET L. PARKER
Reporter
Parish of East Baton Rouge
State of Louisiana

[fol. 681]
STATE OF LOUISIANA
PARISH OF CLAIBORNE

I, Louise Riser Linton, witness in the above-entitled cause, do hereby certify that I have read the above and foregoing, and that it is a true and correct transcript of the testimony given by me on the 9th day of October, 1962, commencing at 11:45 A. M. in the Post Office Building, Homer, Louisiana.

Homer, Louisiana, this 30th day of November, 1962.

/s/ LOUISE RISER LINTON

[fol. 682]

PLAINTIFF'S EXHIBIT No. 21R

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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Deposition of MRS. MAE LUCKY, taken at the instance of and on behalf of the Plaintiff in the above matter; August 23, 1962, in the Ouachita Parish Courthouse, Monroe, Louisiana.

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[fol. 683] Examination.

By Mr. Dunbaugh:

Q. Would you state your name and address, please?

A. Mrs. Mae Lucky, 1417 South Grand, Monroe, Louisiana.

Q. Are you the Registrar of Voters of Ouachita Parish?

A. I am.

Q. How long have you been Registrar?

A. Since January, 1953.

Q. When and where were you born?

A. Pulaski County, Arkansas.

Q. How much education do you have?

A. I have a grammar school and my business education. I had to go to work when I was about 17 years old, my parents—my father died; business school, Draughn's Business College, Little Rock.

Q. How long have you lived here in Ouachita Parish?

A. Since 1919.

Q. When you first assumed the office of Registrar of Voters of Ouachita Parish, did anyone explain to you what the job was about?

A. No sir, because permanent registration became a law the day I took office; the first day of January 1953, permanent registration was adopted by the Police Jury and became effective that day. There was no one who could tell me, no one in Ouachita Parish knew anything about it. I had [fol. 684] to learn the hard way.

Q. What were your registration procedures at that time?

Mr. Lassiter: Now, at this time we wish to object to any questions relative to the Office of the Registrar of Voters of Ouachita Parish, for the reason that the procedures are involved in a suit entitled "United States of America —Vs— Mrs. Mae Lucky, Registrar of Voters"; and any evidence given in this case could be used in connection and conjunction with the suit pending in the Western District of Louisiana, and would infringe upon the rights of Mrs. Lucky as a Defendant in that case.

Mr. Dunbaugh: Am I to understand, then, that any questions that I ask of her concerning the procedures of the Office of the Registrar of Voters of Ouachita Parish, under your advice she would decline to answer?

Mr. Lassiter: That's correct.

Mr. Dunbaugh: All right. That's all.

Witness excused.

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[fol. 685]

PLAINTIFF'S EXHIBIT No. 21S

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of CECIL E. MANNING, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the post office building, Lake Providence, Louisiana, on the 10th day of October, 1962, commencing at 10:00 A.M.

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[fol. 686] The witness, CECIL E. MANNING, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name and address, please.

A. Cecil Manning, Route 2, Box 99-K, Lake Providence, Louisiana.

Q. Are you the registrar of voters of East Carroll Parish, Louisiana?

A. I am.

Q. When did you become registrar of voters?

A. April of 1959.

Q. When you first took office what procedures did you adopt?

A. I adopted the procedure that was being used by my predecessor or the lady before me.

Q. What did you require an applicant to do at that time?

A. To fill out a L.R. 1 correctly and to be identified properly.

Q. Did you require applicants to take any constitutional interpretation tests?

A. At that time I did not, because there were several before me, you see, several applicants before me, you know, that had not had to take it, so I continued as she did.

Q. When did you first start to use the interpretation test?

A. At the beginning of a new period, which was 1961.

Q. Had the federal government photographed the voter [fol. 687] registration records at that time?

A. Had they?

Q. I take it you do not recall?

A. No, I don't recall the date right now.

Q. When you started giving the interpretation test, what procedure did you use then?

A. Well, to be properly identified, that was the beginning too of the state oath requirement—you would have a figure on that, and also an interpretation of 3 clauses from either the state or the federal Constitution.

Q. Mr. Manning, I want you to examine Appendix B of the government's complaint in this case, and ask you if you recognize what that is. That runs for 12 pages.

A. Yes, sir. These first two are two forms of the 24 card forms that I used—set.

Q. Would you examine the others—do those appear to be the cards that you were using?

A. They appear to be all of the cards that I used, yes, sir.

Q. Now, what would an applicant have to do with those cards?

A. To read each of the 3 clauses.

Q. Would he have to read them out loud?

A. There was no set rule there. I did state to some of them if they read them aloud they would more readily—easily—more easily interpret them if they read them aloud.

Q. What else did they have to do besides read them?

[fol. 688] A. Give a reasonable interpretation of each of the clauses.

Q. Was that an oral interpretation?

A. An oral interpretation, yes, sir.

Q. Did you keep a record of which card an applicant received?

A. Yes. He signed that card, stating that he had been given—stating that the test had been given to him by the East Carroll—in my case—Parish registrar, and signed that. I believe—no, there was no date, no, sir, just ward, precinct and address, but it stayed with your regular L.R. 1 card and also your state vote card. They were stapled together.

Q. Did you keep a record of what interpretation the applicant gave?

A. No, sir.

Q. At one time did you start to have the applicants write answers on the cards?

A. Right at the last I—I had 2 or 3. I don't remember the exact number of them that wrote their answers in, and any of them that wished to—some wished to, which was all right with me.

Q. Why did you start giving the interpretation test?

A. Well, it was a state law, and I was trying to go by the full state law, and at that time, with everyone being new applicants or applicants for the new registration period, I thought it would be only fair to everyone to start then and not before, because over half of the ones previous to that [fol. 689] had not had to take it.

Q. Did anyone suggest to you or urge that you give this test?

A. No, sir. I suggested it myself, because I thought it was one of the state requirements—because the interpretation was one of the state requirements.

Q. Is it still one of the state requirements?

A. According to my knowledge now we have a new requirement.

Q. Do you give—

A. But it's still a requirement to give an interpretation test.

Q. Do you give an interpretation test now?

A. No, sir.

Q. Where did you get these cards?

A. I had them printed.

Q. Did you make up the cards yourself?

A. No, sir, I didn't.

Q. Where did you get them originally?

A. I can't truthfully say, because they were in the office whenever I went there, but they just weren't being used. I did have some more copies made after—when I started to using them, because there was only a few left. I don't know—

Q. When an applicant would give you an interpretation, were you the sole judge of whether or not that interpretation was correct?

A. Yes, sir.

[fol. 690] Q. What sort of an answer were you looking for?

A. Well, a correct and concise answer. A reasonable interpretation, in other words. Just something to prove that you understood and could interpret a true interpretation.

Q. How well would he have to understand it?

A. Well, well enough to where I would feel reasonably sure that he did understand it.

Q. Would he have to understand it as well as you understand it?

A. I would think so, yes, in order for me to know that he understood it.

Q. Did you use all of the 24 cards, or did you just select some of them to be used?

A. I selected them at random. I tried to use the whole system, to get around the whole round, and not use one card all the time.

Q. So that at one time or another you used each of the cards?

A. That's right—I'm sure I did. I mean I never checked it, but I'm positive that I did.

Q. Have you read each of the cards yourself?

A. Yes, sir.

Q. Do you understand each of the provisions on those cards?

A. The provisions of interpretation.

Q. Well, did you understand each of the sections that [fol. 691] appear on the cards?

A. I believe I do. I had them explained to me by people that I know that did know.

Q. Who was that?

A. Judges, lawyers, school teachers, someone smarter than I.

Q. How would you determine which card to give to an applicant?

A. It was just strictly by the card.

Q. I'm not sure I follow you.

A. They were filed in a drawer, edge up, and I just pulled one out.

Q. Were they by number?

A. They had numbers on them, but I didn't give them a number, because I didn't know them by number.

Q. Were they filed in numerical order, or how were they filed?

A. Yes, they were filed in a group, numerical order.

Q. So that there would be a group of one's, and then a group of two's, and a group of three's in the drawer?

A. Yes, sir.

Q. When you reached in the drawer, did you know what one you were picking up?

A. I could have made it a point to, but I tried not to.

Q. Did each applicant have to answer all three correctly?

A. Yes, sir, I required all three interpretations.

[fol. 692] Q. If an applicant got two correct and one incorrect, would that applicant be failed?

A. And if he failed, it says that he shall be able to give any—an interpretation of any clause, and if he failed to give one, he wouldn't have been able to give an interpretation to any. He would have been just able to give an interpretation to some of them.

Q. Did you get any instructions from anyone as to how to give this test?

A. Meaning what, Mr. Dunbaugh?

Q. Well, did anyone instruct you what manner you would use to give the test?

A. I don't know what you mean by manner, but no, sir, no one told me to do it a certain way, other than the fact to just require them to take the test, and give the interpretation.

Q. Did someone instruct you as to that?

A. Well, if I understand right, the police jury, if I'm not mistaken, adopted this form of qualification tests.

By Mr. Kron:

Q. Was that before you took office?

A. That was before I took office, I believe.

Q. That was your understanding, but you don't know that of your own knowledge, do you?

A. No, sir, I do not know that of my own knowledge—true knowledge, no, sir, I do not.

[fol. 693] By Mr. Dunbaugh:

Q. If an applicant did not understand some word in the section he was asked to read, would you explain the word to him?

A. No, sir.

Q. You said that you started to use the test because it was required by state law?

A. Yes, sir.

Q. Did someone explain to you what that meant—did someone tell you what the state law required?

A. No, sir, I read what it required—I read it, I mean.

Q. I believe that some of the lawyers in town got one of the most difficult forms. Do you think that they should be able to interpret a harder card than the average applicant for registration?

A. Yes, sir.

Q. Were they intentionally given a more difficult form?

A. You mean that I had given them the card, is that right? Or who gave it to them? I don't know. Do you mean I gave them a more difficult card?

Q. Yes.

A. I wasn't aware of the fact, but—

Q. You didn't intentionally give—

A. No, sir.

Q. —a more difficult card to some of the attorneys—

A. No, sir.

Q. —with the idea that they would be able to answer the more difficult card?

[fol. 694] A. I had gone over all the cards with the attorneys, most of them anyway, before I even started to use the cards. They should be able to answer them.

Q. But when they came in to apply for registration, you didn't make a point of—

A. No, sir.

Q. —giving them a more difficult card?

A. No, sir. Is that your assumption now, that they were given a more difficult card, or theirs?

Mr. Kron: He said he understood that.

A. Oh.

By Mr. Kron:

Q. And you said, "Yes." Did you know of that?

A. No, that's what I say—I did not—he asked me—I mean, I was thinking about something else. I thought they gave him those cards to interpret or something.

Q. So when you said, "Yes," to his understanding that happening, you didn't mean it that way, did you—you misunderstood what he was saying, didn't you?

A. I didn't understand who gave them the cards.

Q. All right.

Mr. Dunbaugh: I have no further questions.

By Mr. Kron:

Q. How many Negroes—to how many Negroes have you given the interpretation test?

A. One.

Q. No more?

[fol. 695] A. No, sir.

Q. At any time since you've been registrar?

A. No, sir, not this constitutional test.

Q. All right. To only one Negro?

A. Yes, sir.

Q. Allegation number 11 of the plaintiff's complaint, after giving the fact that the Louisiana Constitution of 1921 provided for an interpretation test, goes on to say, and I quote, "The purpose of adopting this interpretation test

was to provide a means by which the disenfranchisement of Negroes could be perpetuated." Since you have been registrar, have you used the interpretation test to disenfranchise Negroes and keep them off the registration rolls?

A. No, sir.

Q. You have only given this interpretation test to one Negro during that time?

A. Yes, sir, that's right.

Q. Now, in giving this interpretation test to white people—white applicants, did you at any time, in any single instance, purposely give a person a more difficult card than you would to someone else?

A. No, sir.

Q. Did you purposely choose a certain numbered card to give to any particular applicant at any time?

A. No, sir.

Q. Did you give lawyers more difficult cards than anyone [fol. 696] else?

A. No, sir.

Mr. Kron: That's all.

By Mr. Dunbaugh:

Q. Mr. Manning, you were the defendant in the case of United States versus Manning, is that correct?

A. Yes, sir.

Q. Prior to the time that Judge Dawkins issued his injunction in that case, approximately how many Negroes came to your office seeking to register?

A. They came by groups, different numbers in each group, so I can't say specifically the total number, but I would say, perhaps, 25.

Q. How many of those persons did you permit to actually apply for registration—fill out the forms?

A. One.

Q. Did you give him the interpretation test?

A. Yes, sir.

Q. Did he pass?

A. No, sir.

Mr. Dunbaugh: I have no further questions.

By Mr. Kron:

Q. Who was that?

A. Frank Nervis.

Q. And the details concerning his inability to pass have all been explained by you and are in the record in the Manning case, are they not?

[fol. 697] A. Yes, sir.

Q. And for purposes of this record, did Frank Nervis, after having been given the card, give you an interpretation or attempt to give you an interpretation of those provisions?

A. No, sir.

Q. What did he tell you?

A. He was unable to actually read the instructions on the card correctly, and he told me he was sorry he could not interpret that. He mispronounced even some of the words in the instructions.

Q. The Manning record shows, I believe, that none of the other approximately 24 Negroes who attempted to register ever got to the point of having to take the interpretation test, is that correct?

A. That's correct.

Mr. Kron: That's all.

By Mr. Dunbaugh:

Q. Is Frank Nervis now a qualified voter?

A. I understand he has registered at Monroe.

Q. By the United States District Court?

A. I believe so, yes, sir.

By Mr. Kron:

Q. He is not presently registered on the rolls—on the registration rolls of East Carroll Parish?

A. No, sir, not on my records.

Q. All right.

Witness excused at 10:25 A.M.

[fol. 698]

PLAINTIFF'S EXHIBIT No. 21U

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Henry Earl Palmer, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana, commencing at 9:30 o'clock A.M., on the 25th day of August, 1962.

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[fol. 699] The witness, HENRY EARL PALMER, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name and address, please.

A. Henry Earl Palmer, Jackson, Louisiana.

Q. Are you the Registrar of Voters of East Feliciana Parish?

A. I am.

Q. When did you assume office?

A. February 1, 1958.

Q. When were you appointed to the office?

A. The same—the same day. I got the appointment the same day, in fact, on the day before, I believe.

Q. Did you seek the job?

A. Did I—yes, I put in an application for it.

Q. What form did the application take?

A. I beg your pardon?

Q. Was it a written application or an oral—

A. No, it was—yes, I wrote the application myself. It was just—they advertised for registrars and I put my application in.

Q. Now, when did you apply for it?

A. 1957 sometime. I don't remember.

Q. Did anyone interview you concerning the—your application?

A. No.

[fol. 700] Q. Are you a native of this parish?

A. I am.

Q. When were you born?

A. When was I born?

Q. Yes.

A. November 14, 1913.

Q. And what education do you have?

A. I have a high school education and two years of college.

Q. At the time that you took office—

Off the record discussion.

By Mr. Dunbaugh:

Q. Did anyone instruct you as to what the job would be, what your duties were?

A. You mean before I took office?

Q. Just at the time you took office, either before or shortly after you took office?

A. No.

Q. Did anyone go over with you what the registration procedures were?

A. No. I had a book of the registration laws, and I read those.

Q. Did you read anything else in addition to that?

A. Well, I read newspapers and things like that, yes.

Q. Well, I meant in determining what you were to do?

A. No, we didn't have anything.

Q. What registration procedures did you adopt when you became registrar?

[fol. 701] A. The same that I have now. I went right down the registration laws. Everything it said in there you were supposed to do, I did it.

Q. Well, would you describe what happens to an applicant when he comes in the office?

A. When he comes in, the first thing he does is identify himself. After he identifies himself—at the present laws. Now they have changed a little bit since I took over. When I took over, the first thing they did was to identify themselves, then they took the application card and filled it out. I checked it, and if it was correct then I gave him a Constitution test.

Q. And if it was not correct?

A. If it was not correct they didn't get the Constitution test. They had to come back. The application card itself had to be correct. Then, after—if they took the Constitution test, they signed the precinct register, and that was all.

Q. You say that the procedures have changed since then?

A. A little. At the present time they identify themselves, read a section of the Constitution—Preamble, rather, of the Constitution.

Q. Of Louisiana or of the United States?

A. Either one. I used the Preamble of Louisiana, just let them read it, that's all. And then they write a section of it on dictation. Then they get their application card, fill it out, I check it. If it's correct, they get the Constitution test, [fol. 702] then sign the precinct register.

Q. In administering the Constitutional tests, what source do you use for the sections of the Constitution about which you ask?

A. I have 24 cards, I don't remember who they were put out by. When I first started I typed up my own cards. Each card had one section of the Constitution of Louisiana or of the United States on it. Such sections as Freedom of Speech, Freedom of Religion, Freedom of Assembly, the Fifth Amendment, things like that, you see.

Q. Did you select the provisions that you would use?

A. I selected those when I first started.

Q. Did you seek anybody's advice on which sections to use?

A. No, I just picked out the easiest ones that there was in there.

Q. No one helped you to select them in any way?

A. No. I selected my own.

Q. I see. And what basis did you use to select them—how did you determine which ones you would use and which ones you would not use?

A. I just picked the shortest and easiest sections of the Constitution.

Q. Were there some sections in either Constitution that you did not use because you did not understand them yourself?

A. No, not necessarily. There are probably a lot of them [fol. 703] in there that I don't understand myself, but that wasn't the reason that I picked those.

Q. And then you say that you got some cards?

A. I don't remember—Joint Segregation Committee, or someone, sent out these cards. These cards had three sections of the Constitution on them. Each card had three sections. Well, then I let them pick one card from a section.

Q. Let me interrupt you for a moment and show you Appendix B attached to the complaint in this case.

A. That's the cards, yes.

Q. Would you look those over, please?

A. (The witness so did.) I think these are the same ones, yes.

Q. How was the card selected for an applicant?

A. I turned the cards face down, with the Constitution clauses down, 24 cards. The applicant selects him one card. Then he picks one section of the 3 sections on the card, and reads it, and gives a reasonable interpretation of it.

Q. Did you take an entire set of 24 cards?

A. 24 cards, right. Place them face down, let the applicant draw one card, turn it over, pick out any one of the 3 sections and read it to me and tell me what it is.

Q. Does he read it aloud?

A. Aloud.

Q. And does he give his answer orally?

[fol. 704] A. Orally, yes.

Q. Is the card that he selects then put in the registration records?

A. What do you mean?

Q. With his application form?

A. No, not necessarily. If he fails that, I will put the section that he failed, I'll just put a notation on his card as to what section he failed.

Q. Do you note the number of the card that he selected, or do you note—

A. No, just note the number of the—

Q. —article and section?

A. —article and section, yes.

Q. If he passes, is there any record made of the section that he interpreted?

A. No.

Q. How did you first come into possession of these cards?

A. I got them through the mail, I told you—were sent out—I think it's the Joint Segregation Committee sent them out. And they would—since they had three sections on them, I figured they were a lot easier than the ones I had with one—they could pick one of the three sections. In other words, that gave them a chance—with 24 cards, pick one, and then pick one of the three sections. Makes it a whole lot easier than the Constitution test—let them pick the easiest one. It gives them a better chance.

[fol. 705] Q. Did anyone ever explain to you how these cards were to be used?

A. It has an explanation on the card, yes, but the police jury didn't adopt the cards, so we never used them as they said exactly. In fact I never asked the police jury to adopt them.

Q. Did anyone else ever tell you anything about the cards?

A. I don't believe, sir. I don't think anyone ever told me anything.

Q. I show you Appendix C to the complaint in this case. Would you look at that, please?

A. (The witness so did.)

Q. Did you get a letter similar to that?

A. I don't remember, I probably did. I don't remember specifically having that letter.

Q. What sort of an answer did you expect from that?

A. Anything reasonable. It is just to show he knows what he read is all.

Q. Have you studied anything to find out what these provisions mean?

A. What do you mean have I studied anything?

Q. Well, have you studied any laws or any textbooks or anything to determine what these sections mean?

A. No.

Q. Has anyone given you any advice as to what they mean?

A. No, I don't think I have asked anyone for any advice on any sections on those cards.

[fol. 706] Q. If an applicant doesn't understand a word in one of these sections, will you define it for him?

A. I have a dictionary that he can read it and define it for himself. I don't explain it to him myself. I let him look it up.

Q. If an applicant gives you an interpretation which you deem to be nonsatisfactory, do you tell him why it is not satisfactory?

A. I tell him what the definition—or the answer to the subject is.

Q. After an applicant selects a card and reads it aloud to you, is he allowed to retain the card while he gives his interpretation?

A. Yes.

Q. Has anyone spoken with you concerning the registration policies and practices?

A. What do you mean by that?

Q. Well, made—has anyone made any suggestions to you as to changes you might make or anything along those lines?

A. You mean recently—changes I may make recently that—

Q. Well, has anyone tried to influence you in changing your policies in one way or another?

A. No. The police jury passed a resolution when I went in. And I followed the law strictly. Well, I say, when I went in. It was about a year after I went in. They passed a resolution and sent it to me. I followed the law strictly, that's what I did.

[fol. 707] Q. Had you not been following it strictly—

A. I had been following it—

Q. —prior to that time?

A. I had been following it strictly—well, on minor mistakes I did not turn a person down. In other words, if they missed their age one or two days I didn't turn them down before that, but after that I—

Q. Has anyone other than federal agents inspected your voter registration records—

A. No.

Q. —since you've been registrar?

A. Yes.

Q. Who was that?

A. The district attorney came in there and inspected it. He and 2 or 3 other citizens of the parish.

Q. Did they then conduct a purge of the voter rolls?

A. They did.

Q. Has anyone from the Sovereignty Commission come around and talked to you?

A. I think one man came one time and introduced himself.

Q. Who was that?

A. Who was it?

Q. Yes.

A. I don't even remember his name now. D. K. something, but I—Deenie or something. I don't remember his name. I don't remember what his name was. He came in here and introduced himself and stayed about 15 minutes, [fol. 708] that was all.

Q. Has anyone from the Joint Legislative Committee spoken with you?

A. Not—Joint Legislative Committee—I don't think so, not recently anyway. Back when Earl Long was governor I believe Shaw and Rainach came in there one time.

Q. What did they say?

A. Nothing. They just came in to see how we were doing is all.

Q. If an applicant attempts to interpret one of these three provisions and does not do so successfully, do you permit him to try another section?

A. No, not at that time.

Q. I take it that you are a registered voter yourself?
A. I am.
Q. When did you register?
A. When I was 21 years old.
Q. Have you had to reregister since?
A. Yes, several times.
Q. When was the last time that you had to reregister?
A. I reregistered when we purged the rolls. When we purged the rolls, I reregistered then. That was in '59, I believe, or '58—maybe '58.
Q. Did you have to take the Constitution test?
A. There was no one to give it to me but myself.

Mr. Dunbaugh: Mr. Kron?

[fol. 709] By Mr. Kron:

Q. You stated that someone from the Sovereignty Commission came, you don't know who—
A. I don't remember his name.
Q. —but talked to you about 15 minutes. Did he tell you how you should conduct—
A. No.
Q. —the registration?
A. No.
Q. Is it not a matter of fact—is it not a fact that he asked you questions about how you register people, rather than told you anything?
A. I believe he did, sir. He asked me how—what procedure we went through.
Q. As a fact then, he was seeking information and not trying to influence you in any way?
A. That's right.
Q. Now, then, there was a question put to you about whether you used this test to make it difficult for anyone to register, or did anyone—the question really was, did anyone try to influence you to change your policy. Did anyone try to influence you to make it more difficult on anybody?
A. No, sir.
Q. Did you try to make it more difficult on anyone?
A. I did not. I started out—in fact, I tried to make it more lenient on them.

[fol. 710] Q. As a matter of fact, in choosing, on your own, the sections of the Constitution, you chose the easy ones—

A. Easy ones.

Q. —so that the ordinary man could understand what you were talking about?

A. Yes.

Q. Did you, or did you not, or have you, or have you not at any time tried to use the interpretation test as a means to discriminate against Negroes?

A. I have not. In fact, very few people are turned down on the Constitution test.

Q. That's my next question.

A. Most of the people are turned down on the application card test.

Q. Could you, and I know you don't have your figures with you, but could you give me some idea how many people have been turned down, have been refused the right to register since January, 1962, purely because they failed this Constitution interpretation test, about how many?

A. I don't think that anyone has been turned down since the first of the year on the Constitution test.

Q. All right.

A. I don't think anyone.

Q. That's then a period of 8 months. How many people have registered during that time, roughly?

A. I would say approximately a hundred.

[fol. 711] Q. So that out of one hundred people during 8 months, there has not been a single person who has failed to register because of this test?

A. That's right.

Q. That's all.

By Mr. Dunbaugh:

Q. You have failed people on this test though?

A. Very few. It's a few, yes. I can take you over there—I've got a record of everyone that has failed, white and colored. And there's been a whole lot more whites failed on it than it has colored.

By Mr. Kron:

Q. How long have you been a registrar?
A. Since 1958.
Q. Since '58.
A. In February—
Q. How many have failed because of this test since '58, roughly?
A. Less than a hundred, I would say.
Q. How many of those would be Negroes?
A. I would say about 25.
Q. So that there have been more white people failed to register because of failing the test—
A. That's right.
Q. —than there have been Negroes?
A. That's right.
Q. That's all.

[fol. 712] By Mr. Dunbaugh:

Q. How many Negroes have you registered since the presidential election?
A. Since the presidential election, I couldn't tell you.
Q. Have there been any?
A. I imagine there have. I just don't know offhand. When was the presidential election—2 years ago?

Mr. Kron: In the fall of '59.

A. Yes.

By Mr. Dunbaugh:

Q. 1960.
A. I'm sure some have registered since then. In fact, I'm sure some have registered. I haven't had—I'm just reminiscing right now. I just don't believe that I've had an applicant in the last year.

Mr. Kron: A Negro applicant.

A. A Negro applicant.

Mr. Dunbaugh: That's all.
Mr. Kron: That's all.

Witness excused at 10:01 A.M.

[fol. 713]

PLAINTIFF'S EXHIBIT No. 21V

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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Deposition of SIDNEY WELLS PLATT, taken at the instance of and on behalf of the Plaintiff; August 21, 1962, in Caddo Parish Courthouse in Shreveport, Louisiana.

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[fol. 714] SIDNEY WELLS PLATT, witness, called on oral examination by Counsel for Plaintiff; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. State your name, please?
A. Sidney Wells Platt.
Q. Where do you live, Mr. Platt?
A. Grand Cane, Louisiana.
Q. What position do you hold?
A. Registrar of Voters, DeSoto Parish.
Q. How long have you held that position?
A. Since April 20, 1959.
Q. Did you seek the job?
A. I did.

Q. And how did you go about that?

A. By a letter to the Police Jury asking to be considered for appointment.

Q. Did you set forth any of your background information in your letter?

A. No.

Q. Were you ever interviewed for the job?

[fol. 715] A. Yes.

Q. By whom?

A. By the entire Police Jury and the Policy Jury Attorney.

Q. What did they ask you then?

A. That I don't recall, just what I had done in the past.

Q. Did they ask you anything about what your policies would be?

A. No.

Q. Did they suggest any policies?

A. No.

Q. Did they suggest or explain what the job was about?

A. No.

Q. When were you born?

A. October 21, 1915.

Q. And where?

A. Grand Cane.

Q. Have you lived there all your life?

A. No.

Q. Where else have you lived?

A. I spent 20 years in the United States Marine Corps.

Q. And you were stationed in various parts of the world during that time, and then returned?

A. That's right.

Q. When did you return?

A. To Grand Cane? I retired from the Service on August 31, 1954. I was transferred to Fleet Reserves, I'm still a Reservist.

[fol. 716] Q. What sort of education do you have?

A. Formal or otherwise, which are you speaking of?

Q. Well, we will take both. Let's start with your formal?

A. Formal education; high school, numerous service schools, including the course in Naval Law while I was in

the Service; and various other service schools that I attended along the administrative lines.

Q. What other background do you have? You suggested some other informal education.

A. Training and experience.

Q. What was your job in the Marine Corps?

A. I was Sergeant Major. Of course, I started out as a Private, but since 1943, in what we called then the first pay grades, Sergeant Major or First Sergeant.

Q. Were you a registered voter at the time you were appointed?

The Witness: A registered voter?

Mr. Dunbaugh: Yes.

A. Yes.

Q. Who registered you?

A. A Mr. Slawson.

Q. Is he your immediate predecessor in office?

A. Yes.

Q. What did you have to do to become registered?

A. He had me sign a card and read a portion, I suppose, of the constitution. I don't recall what it was, but I did read [fol. 717] something and give a small interpretation of it.

Q. When was that?

A. I believe I registered in 1952. Prior to that I voted in New Orleans, and prior to that I voted in Philadelphia, Pennsylvania.

Q. You said you retired from the Marine Corps in 1954?

A. That's right.

Q. Had you returned to Louisiana before that?

A. Yes sir. I was stationed in New Orleans for about four years after I came back from Korea.

Q. And you registered in DeSoto Parish, then, before you retired?

A. That's right.

Q. Now, at the time you first registered, wasn't DeSoto Parish on periodic registration then?

A. State your question again, please?

Q. Was DeSoto Parish on periodic registration when you first registered?

A. I suppose it was, I think they registered every 4 years then.

Q. What I was wondering was, did you register more than one time?

A. One time only, I was transferred under permanent registration when DeSoto Parish went under permanent.

Q. I see. Well, whenever it was that you were required by Mr. Slawson to fill out a form and to read and interpret or read and explain something; it was the only time that you have ever registered in DeSoto Parish?

[fol. 718] A. That's correct.

Q. And you are currently a registered voter?

A. Correct.

Q. Do you know when they went on permanent registration?

A. I could guess, but I think it's a matter of record, and you could get the correct answer by referring to the record.

Q. How did the vacancy in the office occur prior to your taking office?

A. Retirement; Mr. Slawson retired.

Q. Did Mr. Slawson explain to you what the job was about?

A. Yes.

Q. What did he say you were supposed to do?

A. He outlined the office procedure that he used, and also stayed there with me for 2 or 3 days after I took office; and Mr. Burgess here, who is our Assistant District Attorney, he also advised me prior to—of course, I was in office already, they kind of supervised and answered questions that I might ask.

Q. I see. Well, what was the procedure, then, at that time?

A. Procedures then were the same as they are now. When an applicant comes in, he was required to furnish proof of his citizenship; that is, of the state, that of his age and that he was able to read and write and qualify under the state law.

Q. Well, let's take that a little more slowly. Starting with the first thing, you say he has to prove his residence?

[fol. 719] A. That's right.

Q. With some documentary evidence, or how?

A. Well, what do you mean by documentary evidence, a driver's license? I'd take a driver's license.

Q. Well, I mean can he just say that he has lived in the Parish for two years—?

A. No, I don't take that.

Q. —or 3 or 4 years, or whatever is required?

A. Some proof. We live on the Texas line, and when I came there, and even now, we have lots of people from Texas that want to register in DeSoto Parish, and it's been a problem separating them.

Q. I see. So, what sort of evidence—?

A. Usually a driver's license. If they can't produce a driver's license, homestead exemption or a receipt—some might have their light meters, gas meter or something that would show dates.

Q. And then what is the next thing after that?

A. Well, after they've established that, well I give them the—now we have a card that they will obey the state laws, and I give them that card to fill out; and when they fill that out, then I have these cards, and I turn them upside down and fan them out just like it was a game of poker, and let them take one out; and I say, "There's three parts of the constitution, turn it over and select any one of the [fol. 720] three you wish, read it; turn this card over that says you will obey the state law, and write your interpretation right across the back of it." When they have done that, then I give them the LR-1 card.

Q. I see. The cards you are referring to, then, are these that are Exhibit-B attached to the complaint?

A. I'm sure that's them, that's right. I believe it's 24 or 25, or some similar amount; they're numbered cards. I don't even know if I have all of the numbered cards or not.

Q. Now, that was the first—the procedure that Mr. Slawson had?

A. I can't answer as to his procedure, except when I registered myself.

Q. Well, that's the procedure he taught to you?

A. That's the one he suggested to me.

Q. Did anyone else offer any suggestions as to what your procedure should be?

A. No one.

Q. Did you read anything in—?

A. Yes, we have a condensed form, furnished by the Secretary of State, of the laws pertaining to people registering. It's taken, I suppose, out of the—wherever it comes from, out of the constitution and other regulations, which I use quite often.

Q. That's a little white pamphlet—?

A. That's correct.

[fol. 721] Q. —of the voter registration laws?

A. Put out by the Secretary of State, Wade Martin, and kept pretty current.

Q. What records did you find in the office when you took over?

A. Numerous records, back to the time of Christ almost; they go back almost to the time we had poll tax in Louisiana. They're all there, of course, and the records really are in order ever since when Mr. Slawson went into office, which I believe was in 1941. They're alphabetized and in order; in other words, they are there.

Q. Are the application forms of those currently registered, kept separate from those prior to—?

A. They are.

Q. So that in the current file of application cards, they would go back to the time when registration was made permanent?

A. They would go back from the time that a man was registered between that four-year period and the time they were blanketed in under permanent registration, depending on what date he registered.

Q. Now, when you took office, did you examine those records?

A. Individually or just—?

Q. Did you just glance through them?

A. Glanced through them; yes, we work with them all the time.

Q. Were there any of these test cards in those?

A. No, they weren't used for that, those cards were [fol. 722] merely used for—see, we have one set of cards; we don't use them like they do, we just use one set. Instead

of using the book, I just take the cards and set them out; and if you are registering you pull one out, and I tell you it's got three parts of the constitution; you turn it over, select any one of the three you wish, read them all three, or whatever you want to do, and write your answer to any one of the three.

Q. But you don't write it on the card?

A. No.

Q. You write it on the back of the oath card?

A. That's since November of last year.

Q. And what about November of last year?

A. We had no place to write it then, unless we attached a blank card to them files; and as far as I know, there is no provision in the law to do that, so I didn't do it.

Q. So, between the time you took office in 1959 and 1961, I guess—?

A. November of last year.

Q. November of 1960, I believe—or '61?

A. It would be November of last year, yeah, '61.

Q. 1961—then the answers were not recorded?

A. No.

Q. Is there any record of the questions, of the numbered card that was received by the applicant?

The Witness: That I used at that time or now?

[fol. 723] Mr. Dunbaugh: Either time.

A. No, I didn't have a—a man, when he selects the one he wants—of course, it won't be true in all of them, because sometimes you do things one way, and sometimes you do them another. I try to have them write the article and the section that it comes from, and under that write their interpretation of it. Of course, they're not all that way; some of them are, and some of them are not, it depends on—

Q. But prior to the time the answers were being written, there was no record kept of the questions—?

A. None whatsoever.

Q. —or of the answers?

A. No.

Q. I should say of the provision that was selected?

A. No provisions that I know of, nor did I keep any.

Q. And since on some of these cards the same question will appear on more than one card, or the same provision will appear on more than one card; it's not clear, I take it, from your records which of the cards containing that provision the applicant got?

A. On some of the cards, now, he would write the article that he selected, and if you'll look on those cards, at the heading it gives each article and section of the constitution, whether it's Louisiana or an amendment, or whatever it might be; then he would write that, and then underneath [fol. 724] that he would write his interpretation.

Q. Yes, but since the same article may appear on other cards, it's not sure that he got this card or the other card?

A. It would be unlikely—I selected no cards; if that's what you're getting at, I selected no cards, the applicant draws his card, just like drawing cards out of a deck.

Q. Yes. You set the whole series out?

A. If I had a whole series, I don't even know if I had one.

Q. But you set out all the cards you do have?

A. That's right, spread them upside down on the table, and he selects the one he wants; just pulls one out and turns it over, and if he can read one out of three and give a reasonable interpretation.

Q. Were those cards in the office when you took office?

A. They were.

Q. And have any of them been replaced?

A. No.

Q. So, it's the same set that was there when you took office?

A. That's right.

Q. Do you have any deputies?

A. I have a part-time deputy, yes, Mrs. Slawson; she's the wife of the former Registrar. She doesn't work every day.

Q. Did you instruct her as to what to do?

A. That's correct.

Q. Now, you said you used all of the cards that you have; [fol. 725] you have not eliminated any of those cards?

A. I have no reason to.

Q. Do you understand each of the provisions on all of those cards that you have?

A. I have an interpretation of them myself. Whether they would be an attorney's—I don't ask for any technical opinion. If he—like one, if he says that no law be passed concerning religion on it, and he says, "Freedom of religion", that's all right with me, I don't—just a sample form. Most of them answer them with 1 or 2 words, some write you a whole book on them.

Q. Well, when you first took over the office, I take it you were not familiar with the cards at first?

A. No.

Q. Did you study the cards?

A. I read them, yes sir.

Q. How did you determine what answers were going to be acceptable?

A. Well, most of them are pretty simple. If you've read them yourself, I don't see that there would be much question about answering them. If it says, "No laws will be passed to curtail freedom of speech," it's freedom of speech. I learned that in grade school. Of course, there might be some technical questions asked, and my answers might not suit you. I'm sure I can answer 1 out of any 3 cards you'd [fol. 726] pick, though; I believe anyone can if he'll check them over.

Q. Has an applicant ever given an interpretation to one of these that you did not understand?

A. You mean to read it and interpret it? Yes, I've had some of them read "freedom of religion," and turn around and interpret that the Supreme Court does this and does that.

Q. No. What I meant to say was: Have you ever—well, you said that you understand each of these—?

A. No, I didn't, I said I believe I can give a reasonable interpretation of any one you select on any card; I believe anyone can.

Q. Well, what I meant to say was, that if there are some of these—are there some of these provisions that you don't understand, that you aren't too sure of the meaning of?

A. Well, now how technical are you with this provision that you are talking about; just a reasonable interpretation as the state law says? I believe I can do that on any of them; a reasonable interpretation.

Q. Do you understand what the word "venue" means, for instance?

A. Yes. If a man is in one parish and he wants to change his venue to be tried in another parish, he can request that it be done.

Q. And prescription?

A. Prescription is usually a time that runs, prescription of time.

[fol. 727] Q. Does Mrs. Slawson sometimes test applicants?

A. Yes.

Q. Do you think she understands all of these provisions?

A. If she turns any down, I take them over and try them after that. Anyone that she is in reasonable doubt about, that is rejected for any reason—she doesn't reject applicants; if I'm out of the office, she asks them to wait until I come back.

Q. Now, you don't have the applicant answer three of them, they only answer one, is that correct?

A. One.

Q. Suppose they answer one of the more difficult ones and they answer it wrong, whereas on the same card there may be an easier one; do you let them try again on this other one, or—?

A. They can try all of them if they want; if they answer one out of the three, it's all right with me. They can write the answer down to all of them, I just ask for one; if they write all three and they answer one out of the three and it's satisfactory to me and reasonable, I accept it.

Q. Even if the other three are clearly erroneous?

A. That's right. I haven't had that to happen except with a couple of preachers—they're white at that—and they'll answer all three, they'll write you a book if you will give them enough paper.

Q. If they only answer one, though, and answer it wrong, [fol. 728] do they get another chance?

A. Not that day.

Q. They do not get another card or a chance to go on the same card again?

A. I give them one card, one time, one day, that's right. If you have a line and just keep giving the same person a

chance, he is using up the other people's opportunity who are behind him. He can come back the next day and try it, or the next day and try, he can try every day; and if I turn him down, then I tell him, "You have recourse through the state courts, you can go to the FBI, you can go to the Civil Rights Commission, you have recourse to my decision." I inform each and every one that I turn down that.

Q. But even if there is no line, he does not get a second chance that day?

A. Not that day, no.

Q. When you hand an applicant a card, what do you tell them?

A. Which card?

Q. Well, you don't hand them a card, do you, you spread them out for them?

The Witness: Now, there are three cards, which card are you referring to?

Mr. Dunbaugh: Well, I'm talking about the test cards.

A. Oh, test cards; I just fan them out and tell them that Louisiana law requires that they read and interpret a por-
[fol. 729] tion of the Constitution; and that these cards contain three parts of either the Louisiana or the United States Constitution, and he can draw one, turn it over, select the one he wishes and write his answer. I don't require him to read it out loud or to tell me what it means. If he runs across a word that he don't know, if he asks I'll tell him; if he don't ask, I don't tell him.

Q. What did you do with illiterates before they were barred from registration?

A. I've had one; in my time I had one. I registered him when he brought two applicants—I thought I was going to have to fight him at first, and then he went and got two qualified registered voters from his ward and precinct and brought them in, and I registered him.

Q. Now, how did he take the interpretation test?

A. You read it to him and he interprets what he thinks it means.

Q. Did he select a card in the same manner as—?

A. No.

Q. How was his card selected?

A. One of his witnesses selected the card for him.

Q. In the same manner as other applicants?

A. That's right.

Q. And who read the card to him?

A. I did.

Q. Did you read all three provisions?

[fol. 730] A. Yes.

Q. All right. Now, what are you testing when you give the interpretation test?

A. What am I what?

Q. What qualification are you testing?

A. I'm complying with the law; it says that he reads and interprets—a reasonable interpretation of a portion of the constitution, and that's what I consider in my test.

Q. Well, what exactly are you seeking?

A. To comply with the law, as I understand it.

Q. What I'm getting at, what type of an answer is satisfactory, how well must he understand the law?

A. Well, I gave you some samples back there as to what I accepted, and I believe that would be explanatory as to what I accept; just a minimum—a reasonable interpretation.

Q. Reasonable for the average man?

A. For less than the average I would say.

Q. For less than the average man. Do you have a real or a hypothetical man in mind, somebody that you know that you think is of that minimum level?

Mr. Kron: I object to the form of the question. We're getting into political and sociological philosophies. That's not this man's object, he is required under the law to do a [fol. 731] certain thing, and he's doing it as he sees the law; and he has answered that question.

Mr. Dunbaugh: Are you instructing him not to answer it?

Mr. Kron: I do.

Q. Now, other than the change from not writing the answer to writing the answer, has there been any other change in the tests?

The Witness: In the test itself?

Mr. Dunbaugh: In the interpretation tests.

A. None whatsoever.

Q. Now, I believe you said that they fill out the application form before they take the test, or is it after they take the test?

A. No.

Q. After they take the test?

A. They take the oath card first—I don't even know the number, or if it has a number, it's an oath card; if they can fill that out and they can read and write it—if they don't know their ward and precinct, if they will tell me where they live, I'll tell them that; and then I give them the constitutional cards, or they draw one.

Q. If someone fails on the constitution, they do not get the application card; is that right?

A. No. Now, I say no; sometimes they work it the other [fol. 732] way, sometimes they work it one way—it's just a procedure that you might—you might ask the questions one way, and turn around and ask them another way, and I run my office in the same manner. I might run it this way one day, but the next day I might give him a card first.

Q. If someone says, "Well, I can't answer these"—has that ever happened?

A. Quite frequently.

Q. Is there any record made of the card that he got?

A. How are you going to make a record if he can't write, or refuses to write?

Mr. Kron: Are you talking about the same cards, now?

Mr. Dunbaugh: I'm talking now about the interpretation test cards.

A. Well, you said, "If he couldn't write"; if he can't write, you don't go no further than that.

Q. Well, no. Suppose a person come in and he takes the oath, signs the oath, and then he selects a card; and he reads it over and says, "I can't answer these."

A. Well, it's no need of going any further.

Q. Do you write down the number of the card?

A. No, I don't write anything down—

Q. There is no record of that?

A. —except that he just failed; "Failed constitutional," [fol. 733] or "Failed to read the constitution," "Refused to write it"; then put it in the file.

Q. You write that down?

A. Sure.

Q. Where do you write it?

A. I write it on that card.

Q. On the oath card?

A. That's right.

Q. Before you had the oath card, was there any record kept of such instances?

A. Yes.

Q. What record?

A. It's kept on the LR-1 card; we used them first then.

Q. Oh, prior to the time you got the oath card, they got the LR-1 first?

A. That's right.

Q. So, up until the time that the oath was used, they got the LR-1 first, and then the test?

A. That's right.

Q. Now, they get the test first, and then the LR-1?

A. That's correct— No, not first, now, they get the oath card first, the test card second.

Q. And the LR-1 third?

A. The LR-1 third.

Q. Then, if there is any applicant who is rejected on [fol. 734] the basis of his application card not being properly filled out—?

A. There's some rejected on that, yes.

Q. Under the prior practice, it can be assumed that he interpreted the constitution satisfactorily?

A. Under the practice I have now, there would be a record of it; there is a record made, he writes it on the back of that card. Those cards are in my office and have been photographed by the Department of Justice.

Q. Has anyone spoken with you concerning your registration policies and practices?

A. Oh, lots of people, everybody you see on the street talks to you about it. I think the public should know how

I run my office, and I go before the Police Jury and before civic organizations that invite me to speak, and tell them how I operate my office.

Q. Have you received any instruction from the Police Jury as to what policies you should adopt?

A. No, I don't believe they have any jurisdiction over my office, other than to appoint me; and after I'm appointed, then I believe I come under a different department altogether.

Q. So that the policies that you have adopted, the procedures that you use and the standards by which you judge the cards are your own?

A. They're mine, based on the law as I interpret the state law says that I do it; but just for me to make them [fol. 735] up, no, I don't do that, I base it on the law as I read the state law, it tells me how to operate.

Q. Has anyone in an official or unofficial capacity given you any guide-marks as to what is a reasonable interpretation?

A. No. If they have—there might have been a letter came, but I don't recall; and I believe at one time the Board of Registration—Mr. Cutrer—sent out a letter of some kind. I think, though, that you have referred to it, and I know you have a copy of it; so I received a copy of the letter that you have, or have reference to. I don't even know the date, but I'm sure that I received a copy; because I know you have referred to it, and I do have it—or I throwed it away. It was a suggestion; to me it was a suggestion and not an order, and I chose not to—I chose to stick with my present procedure.

Q. So that you're the sole judge of what's a reasonable interpretation?

A. No, I'm not the sole judge, I think the interpretations are laid down for years. When I went to school and studied a little bit, and in my every-day life, I judge it on that; and judge it by people that I hear talk and people that I—and in the court proceedings, and things like that. They've made the interpretations, I think I just use it as a guide-line.

Q. Well, I mean; say for a particular applicant and a particular answer that he has given, you are the sole judge [fol. 736] of whether it's a satisfactory answer?

A. I don't exactly know what you're driving at right now.

Q. Well, if an applicant comes in and he selects a card and he writes an answer on the card, you're the sole judge as to whether that's a reasonable answer—?

A. I think he and I together are. If I'm not quite sure of what he means, I'll ask him: "What do you mean, can you amplify further, or do you wish to change it, or do you think you're right; what do you think about it?" I discuss it with him a little bit.

Q. You do that in all cases where a person would be rejected otherwise?

A. Absolutely.

Q. Has anyone from the Sovereignty Commission come around and talked to you about registration policies and practices?

A. Two gentlemen came, but as far as the practices and all, as far as discussion with me on how to operate the office, they have not; but I don't know whether they were from the Sovereignty Commission or what commission, but they were two that came.

Q. Do you recall their names?

A. No. I think they were more or less coordinators to see how each office was operating; they made no suggestions as to how to operate the office. They might have asked me some questions as to how I operate it, and if they did, [fol. 737] they got the same answers you're getting right here.

Q. Did they look at your registration records?

A. No, they looked at nothing.

Q. Has anybody looked at the registration records, other than federal agents?

A. No, I don't think anybody else is interested in them; not since I've been there, they haven't.

Q. In addition to studying these cards, reading over the cards, did you do anything else to study for the tests?

A. Me study for a test; I haven't taken any test, I don't know what you're referring to.

Q. Did you study anything else to determine what would be a reasonable interpretation of some of these provisions?

A. Well, they taught that in school from the time I started and while I was in the Service, and I took a course

in Naval Law while I was in the Service; and I believe—as simple as most of those are, I don't believe anyone would have any trouble interpreting them for what I would require for an interpretation of them.

Q. Well, since you've been Registrar, have you read up on any of these provisions, studied an annotated edition of the Constitution or—?

A. I don't even have a copy of it.

Q. —or inquired of a lawyer about it?

A. Yes; if I have a problem, I have several attorneys [fol. 738] that I would turn to; but I haven't had to ask any of them on these interpretations, no. We have access to the Attorney General's Office also if we need a question answered; I could pick up the phone, if I need to, and call there.

Q. Do you also use the preamble?

A. No.

Q. You do not require applicants to—?

A. I don't even have a book; I don't even use a book, there's not one of those books in my office, and the preamble is not contained in any of those cards. I use the cards only.

Q. What are you basically trying to find out about the applicant, are you trying to find whether he can read and write?

A. I'm trying to find out if he is qualified to register, that's my job there; and if he is qualified, I register him, if he is not, I turn him down. That's the only basic thing I'm trying to find out.

Q. Well, in giving these tests, are you trying to find out whether he can read and write?

Mr. Kron: I object to that, and instruct him not to answer. The objection has already been made. We are again reverting to the political philosophy of a certain group, which is not a part of the Louisiana law. This man has stated for the record that he is trying to follow the [fol. 739] law as it is set forth.

Mr. Dunbaugh: Mr. Kron, we're simply trying to find out what he feels is a reasonable interpretation—

Mr. Kron: You're trying to prove that every man, because he is a citizen, should be entitled to vote; we don't believe that way in Louisiana. The Lassiter case says we have the right to prescribe minimum qualifications; those minimum qualifications have been prescribed, and this man is doing a very, very fine job of following the law.

Mr. Dunbaugh: Well, I'm simply trying to find out what he thinks he—

The Witness: Can I show him something here now—if he will cut that machine off there a minute?

(Colloquy of counsel and witness)

Q. Louisiana law requires, does it not, for them to be able to read and write?

A. Yes.

Q. What do you consider the test that you give as to illiteracy?

The Witness: Illiteracy tests?

Mr. Dunbaugh: Yes.

[fol. 740] A. If he can fill that card out, and if he can read the Constitution and reasonably interpret the back of it, I think he can read and write. Wouldn't you? I'm not supposed to ask the question, but I accept that as— Now, to further amplify that, there's a lot of them that fill the cards out that can't read and write, because they count the lines; and if you don't believe it, I have one down there that answered—they turned the card around a little bit, and where he got the answer from I don't know; but he said his sex is good. Of course, I agree with him, but that is on one of my cards; and every time they change the cards, you would be surprised at the answers we get.

Q. You change the application card around?

A. I have no authority to change them, I accept what the state gives me.

Q. Well, what I'm trying to find out is whether or not, in giving the constitutional interpretation test, if you're finding out any more about the applicant than that he can read and write?

Mr. Kron: Object to the question, and instruction to the witness—the question has already been answered as fully as a man can answer the question.

Mr. Dunbaugh: OK. That's all, Mr. Platt. Mr. Kron, do you have any questions?

[fol. 741] Examination.

By Mr. Kron:

Q. One thing. Is it not a fact that the two men whom you think were from the Sovereignty Commission, were actually interviewing you, asking you for information, rather than giving you any instructions?

A. They gave me no instructions at all.

Q. They were trying to find out the modus operandi of your office, is that correct?

A. That's correct.

Q. In addition to that, has any agent, political or otherwise, and particularly the Police Jury or the Attorney General's Office or the District Attorney or his assistant, ever asked you or suggested or instructed you to operate on a discriminate basis as to color?

A. They have not.

Q. Have you in any manner, shape or form conducted your office in a discriminatory manner, based on color?

A. I have not.

Mr. Kron: That's all.

Mr. Dunbaugh: No further questions.

Witness excused.

[fol. 742]

PLAINTIFF'S EXHIBIT No. 21W

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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Deposition of MR. J. A. H. SLAWSON, taken at instance of and on behalf of Plaintiff herein; on October 12, 1962, in DeSoto Parish Courthouse, Mansfield, Louisiana.

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[fol. 743] MR. J. A. H. SLAWSON, witness called on oral examination by Counsel for Plaintiff herein; first duly sworn, did depose and say, to wit:

Examination.

By Mr. Dunbaugh:

Q. Will you state your name and address, please?

A. J. A. H. Slawson, 402 Gibbs Street, Mansfield, Louisiana.

Q. Were you formerly the Registrar of Voters of DeSoto Parish?

A. I was, yes sir.

Q. How long did you hold that office?

A. From November 14, 1941, until I retired in April of 1959.

Q. When you first took office, what procedures did you adopt for registering applicants?

A. Well, that's kind of hard to remember all of that now. At that time it wasn't as strict as it is now, of course. We'd gave them a card and have them fill it out, and if it

seemed to be correct, well I'd qualify them; that is, correct so far as I was concerned.

Q. Was it necessary at that time for an applicant to read and interpret any section of the constitution?

A. Not at that time, no sir.

Q. Did you later require that applicant read and interpret a provision of the constitution?

A. Well, yes, when the laws were changed. They changed the laws every once in a while, you know, and of course we [fol. 744] had to follow the changes.

Q. Do you recall when it was that you started using that requirement?

A. Well, no, I don't, not offhand like this; good many years after I took office, of course.

Q. Now, in 1956 there was a purge of the vote rolls; is that correct?

A. That's right.

Q. Was it after that time that you started using the test, the interpretation?

A. I believe it was.

Mr. Burgess: Is there any way you can refresh your memory on that and be precise?

A. Well, I don't have any notes or anything. I did have the congressional record that I had all of that in, but I threw that away here a while back.

Q. Well, in 1956 who conducted the purge of the voter rolls?

A. The people.

Q. What people?

A. People of Louisiana and DeSoto Parish.

Q. Was it done by members of the Citizen's Council of DeSoto Parish?

A. Well, no doubt some of them were members, I didn't question that.

Q. Were you a member?

[fol. 745] A. Sure, ever since they started; still am.

Q. How many people were purged?

The Witness: Can I look at my notes?

Mr. Dunbaugh: Sure.

A. If I remember well, there were 574.

Q. How many of those were negroes and how many whites?

A. Well, very few whites.

Q. When did DeSoto Parish go on permanent registration?

A. In 1955, if I remember well.

Q. Was that before this challenging, or was this after the challenge?

A. That was before the challenge.

Q. Now, when you adopted the interpretation test, what procedure did you use to test applicants?

A. Oral at first.

Q. Did you use a book with the constitution in that?

A. Oh, yeah; made them read a section of the constitution, constitution of the United States, and also the State of Louisiana.

Q. You had two different books?

A. Yes—No, I had one book, but I had a—of course, I knew what the Constitution of the United States was, actually, as well as the State Constitution.

Q. They were both in the same book?

A. No. I did have a—I had the United States History—I [fol. 746] believe I'm right—in my office.

Q. Now, was the applicant supposed to read a section out loud?

A. That's right.

Q. How did you pick out the section that he was to read? A. Well, that was up to me, I selected some that, as a rule, I thought they could read. I never did try to get something out of it that would stump anybody.

Q. There were some sections that you never used?

A. That's right. I could have used any section I wanted to, see, under the law.

Q. But you didn't use all of the sections?

A. Oh, no; skipped around.

Q. When an applicant would walk in, how would you pick out which one you were going to give him?

A. Oh, well, I wouldn't pick out the one the other fellow had, because they might be telling tales out of school here among themselves; I couldn't afford to do that.

Q. All right. Now, in addition to reading the test—you said the applicant had to read it out loud to you?

A. Yes sir.

Q. After he read it, did he have to do anything else?

A. Had to explain it to me, give it to me in his words, the way he understood it.

Q. Did you make any record of what section you asked him to read?

A. No sir, I didn't, I just picked them out.

[fol. 747] Q. Is that true of both the people who passed and those who failed?

A. How is that?

Q. Is that true of both the people who passed and the people who failed?

A. Oh, yes.

Q. Did you make any record of the answers that they gave?

A. No sir.

Q. Now, is this the system that you used the whole time that you were Registrar, when you were giving this test?

A. Yeah, up until I retired, sure. As I told you before, that was not in the beginning, of course.

Q. Yes. Then, you didn't change over to using cards or something else, other than the book?

A. Uh huh. (Affirmative)

Q. You always used the book?

A. Oh, no, when they changed over to those cards, well I dropped the book, naturally. Wait a minute, let's don't get me balled-up on that; I still would question them to see if they understood what they were doing.

Q. Now, Mr. Slawson, I will show you Appendix-B of the Government's complaint in this case. Do you recognize what those are, those 12 pages there?

A. Well, I didn't have this kind of a form, I just used the book.

[fol. 748] Q. You never used those cards, you just used the book?

A. The ones we have now, you mean?

Q. Well, no, these cards here that are Appendix-B?

A. Well, I think these things came out since Mr. Platt took over—didn't they, Sidney? Could he answer that?

Q. Well, you didn't use them, that's the question?
A. Not this, I had nothing like that, only the book.
Q. Will you take a look at Appendix-A?
A. Uh huh. (Affirmative)
Q. Have you ever seen one of those?
A. Yes sir.
Q. In the original, that's a little booklet, is that right?
A. That's right.
Q. Where did you get that?
A. Secretary of State sent it to me, or the Attorney General, one or the other; I don't remember which one.
Q. Some office in Baton Rouge?
A. Oh, yes.
Q. When an applicant gave you his understanding of the section, were you the sole judge of whether that was correct?
A. That's right, he had to give me the definition in his own words, to my satisfaction, see; that I knew that he understood what he was doing and understood the constitution, the requirements.
Q. Now, would you explain to us again why it is that you [fol. 749] started using the tests?
A. How is that?
Q. Why did you start to test people on the constitution?
A. Well, let me say this: I'm a little bit hard of hearing, that's why I have to ask you the second time, you see; I'm sorry.
Q. You started to use the test, I believe you said, sometimes after the purge; you started to inquire about an applicant's ability to read and understand—?

The Witness: Did I say after the purge?
Mr. Dunbaugh: I believe you did.

A. Well, I might have made a mistake there, it was all along about the same time anyway; I don't know.
Q. It was about the same time as the purge?
A. It might have been a little before and it might have been a little after, I wouldn't say for sure, I can't recall that.
Q. Why did you start using it, why did you start requiring applicants to interpret the constitution?
A. Because of the law.

Q. Did someone suggest to you that you ought to use it?
A. As I remember, I had instructions to that effect.
Q. From whom?
A. Well, it would be the Attorney General I imagine.
Q. Do you recall who—?
A. A little pamphlet came out about those things; maybe [fol. 750] you've got a copy of it, I don't know, you should have.
Q. Do you recall who instructed you?
A. Well, it would have been the Attorney General, he sends those little pamphlets out, and the Secretary of State sends them out too. I had all of those things in the office; of course, I've done away with all of those things now, naturally. It may be some of them in the office still.
Q. How old a man are you, Mr. Slawson?
A. Sixty-nine. (69).
Q. Are you a native of this Parish?
A. Yes sir.
Q. And did you go to school here?
A. Yes sir,
Q. And how many years of schooling do you have?
A. Seven grades is all I got. I would have had to come to Mansfield; I lived out in the country out here, and of course I didn't have any way to come to Mansfield to enter high school, the 8th grade, so I had to stop at the 7th.
Q. Are you married?
A. Sure.
Q. Was your wife your deputy when you were Registrar?
A. Yes sir, she worked with me all the time.
Q. Is she still the Deputy Registrar?
A. She works in the office, yes sir.

Mr. Dunbaugh: I have no further questions.

[fol. 751] Examination.

By Mr. Burgess:

Q. Mr. Slawson, do you have any way of recalling how many people you ever refused registration on account of their failure to properly interpret a provision of the constitution?

A. No sir, I didn't keep a record of it, but there were a good many.

Q. Would you say was there any way of knowing whether they were more or fewer of one race than the other, as opposed to the white and colored?

A. Well, let me answer the question this way, if I may: Those that filled out their card, if they didn't fill them out correctly, well I didn't qualify them and put the card aside, of course.

Q. Well, that card at that time did not have any questions relative to the constitution on it, the constitution of—?

A. How is that?

Q. That card did not have any questions relative to the constitution on it, did it?

The Witness: On my cards?

Mr. Burgess: Yes.

A. I don't believe so; I don't remember that, I don't think so.

Q. Well, what I had reference to is failure to pass or register on account of their failure to interpret the constitution, a passage of the constitution?

[fol. 752] A. I know; there was nothing like that on the card, if I remember well.

Q. Did you fail many people on account of their failure to properly interpret the constitution?

A. Well, yes, some of them; few, not many.

Q. And most of your failures came about because they could not fill the cards out?

A. Right, a lot of them didn't have any education, a lot of them couldn't read and a lot of them couldn't interpret what they read. I say a lot; a few of them, of course.

Q. There is just no way of you remembering, without spending many years, without knowing—I mean, you have no record whatsoever of knowing how many people failed to pass on account of the constitution?

A. No, I kept no record of that.

Q. Were your tests very strict?

A. Yes sir, I was just—

Q. Well, now what do you mean by strict?

A. Well, I required them to give me a good idea that they knew what they were doing and understood what they were doing, and about the laws of Louisiana; and the United States, of course, the constitution. It all depended on what I asked them.

Q. Did you pick out any technical phrases, or anything like that?

[fol. 753] A. No sir; no sir, just ordinary language in the book, I didn't get anything to bog them up with, naturally.

Q. Some of those things you might get bogged up with yourself—?

A. That's right.

Q. —So, you wouldn't want to get into those and get bogged up yourself?

A. Correct.

Mr. Burgess: I have no further questions.

Re-examination.

By Mr. Dunbaugh:

Q. When an applicant came into your office to register, did you give him the constitutional test first, or did you give him the application first?

A. I gave him the constitutional test first, made him read out of the book.

Q. Yes. If he failed, would you then give him an application?

A. Well, no, not necessarily.

Q. So then is it true that there would be no record in the office, of persons that had come in and failed the constitution?

A. No, no record of that.

Mr. Dunbaugh: That's all.

Mr. Burgess: That's all.

Witness excused.

[fol. 754]

PLAINTIFF'S EXHIBIT No. 21X

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of THOMAS W. THOMPSON, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the court room of the East Feliciana Parish Courthouse, located in Clinton, Louisiana, commencing at 11:08 o'clock A. M., on the 25th day of August, 1962.

[fol. 754a] Mr. Dunbaugh: Mr. Thompson, the Registrar of Voters of West Feliciana, being present, it has been agreed between the parties and also by the witness that he should give his deposition at this time, although such deposition has not been noticed and no subpoena has been issued.

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The witness, THOMAS W. THOMPSON, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name and address, please.

A. Thomas W. Thompson, Route 1, Jackson, Louisiana.

Q. I take it that you live across the line in West Feliciana Parish?

A. Yes, sir.

Q. You are the Registrar of Voters of West Feliciana Parish?

A. Right, sir.
Q. How long have you held that position?
A. Since May 1st—3 years this past May 1st.
Q. In 1958?

Mr. Kron: No.

A. No, '59.

[fol. 755] By Mr. Dunbaugh:

Q. 1959?
A. 1959.
Q. Now, when were you born?
A. October 18, 1904.
Q. Where were you born?
A. In East Feliciana Parish.
Q. How long have you resided in West Feliciana Parish?
A. Oh, since I was about 12 years old.
Q. Prior to the time you became the Registrar of Voters of West Feliciana Parish, were you registered to vote there?
A. Yes, I was.
Q. What sort of work did you do then?
A. Well, I—farming, cow business.
Q. How much education do you have?
A. High school—equivalent to high school.
Q. When you registered to vote in West Feliciana Parish, what did you have to do?
A. Well, the last time I had to read a section of the Constitution—of the Louisiana, I believe. Let's see—it was this book here.
Q. When was that?
A. Just prior to the time that I took the office I registered.
Q. How about prior to that time?
A. No, they didn't give any tests prior to that time.
[fol. 756] Q. When you took office, did anyone explain to you what the duties of the job were?
A. No. I read the law. We have, you know, the registration laws, and I read them. And the police jury told me they wanted me to go right down the road, just follow the law—down the middle of the road.

Q. What procedures did you adopt?

A. Well, I give them the Constitutional test—the cards, and if anybody fails it, well, I wrote the Constitutional section that he failed, and what card it was on, on his card that he failed. If he failed the Constitutional test. Now, some of them, you know, failed to fill out the application form right, and of course, I turned them down on that, and I keep those.

Q. Which do they get first?

A. They get the—well, now, well, I let them read the Preamble first, and then I let them—I dictate a portion of that and they write it. And then I give them the oath, and they sign that—the oath card, you know about that. And then I give them the application and then they fill it out. And I fan out the cards, about 10 of them, and let them pick one and interpret one of the 3 Constitutional sections on that card.

Q. Now, if they fail in either the reading or the writing of the Preamble, or in the application form, do you stop them at the point where they fail?

A. Yes, sir.

[fol. 757] Q. Do you tell them what's wrong?

A. Yes, sir.

Q. You mentioned cards. I will show you Appendix B to the complaint in this case. Please examine this and tell me whether or not these are copies of the cards that you use.

A. (The witness so did.) I don't have this number 4 in mine—yes, sir, that's them.

Q. Where did you get the cards?

A. Oh, they were sent out of the state office.

Q. Do you have more than one set?

A. No, sir.

Q. When an applicant is to be given the test, do you place all of the cards that you have before him?

A. Just fan them out like this in my hand, and let him pick one. All of the ones that I use, I mean, I've got about—I just reach in there and get about 10 of them, and that's the ones that I use.

Q. You don't use all of them—

A. No.

Q. —all of the time?

A. No. I use those 10 all the time. Ten or 12, it may be 12.

Q. Now, the whole series of Appendix B has 24 cards.

A. No, sir, I don't use them.

Q. Did you go through the 24 cards and pick out 10?

A. No, I just—I just reach in there and get about 10 or [fol. 758] 12, and those are the ones that I've been using all the time.

Q. And how did you decide which 10 or 12 to use?

A. Pardon?

Q. How did you decide which 10 or 12 to use—

A. I just picked up the first 10 or 12 that was in there and use them.

Q. And you have consistently used the same ones ever since?

A. The same ones, yes, sir. In fact, I think that's all I've got—just those 10 or 12.

Q. Do you know offhand which numbers they are?

A. No, but I could—I could probably identify them if I may.

Q. Go right ahead.

A. Well, the number 1—number 1, number 2, number 3, number 7, number 8, number 9, number 12, number 14, and number 15. I think that's about right. That's as close to it as I can get.

Q. After an applicant has picked one of these cards, what do you tell him to do?

A. Read one section of the Constitution and give me a reasonable interpretation to it.

Q. May the applicant pick out any one of the 3?

A. Yes, sir. I tell them that they may take their choice.

Q. Is he to read it out loud to you?

A. Yes, sir. Read it out loud to me and then give me a reasonable interpretation to it.

[fol. 759] Q. If he has difficulty on the one that he selects of the 3, do you let him try another one of the 3?

A. No, sir. I tell him to pick out the one—to take one and read it to me, and if he fails that one, I mark it on his card which one he fails.

Q. If he gives an unsatisfactory interpretation, do you let him try to interpret the same provision again?

A. Well, I let him pick a card out when he comes back—not that day. He can come back the next day. For instance,

I remember some of the answers—one of them says—let's see. Every state—the United States shall guarantee to every state in the union a republican form of government. One man came in there, and he said, "Well, that's my right to do what I want to do," you see? And I turned him down. And he says, "That's an Eisenhower form of government—the republican." And I turned him down.

Q. Do you maintain any record of the card selected, or the provisions interpreted by a successful applicant?

A. Would you ask that question again, please?

Q. Do you maintain any record of the card selected, or the provisions interpreted—

A. Oh, yes, I put it—

Q. —by an applicant that passes it?

A. I put it on the card that he failed.

Q. I am talking about the ones who pass?

A. No, no, I don't.

[fol. 760] Q. Now, on the ones that fail, do you put down the card number that he selected—

A. Right.

Q. —or do you put down the section he chose?

A. I put the section—the section number and the Constitutional question that he failed.

Q. Do you put down just the section number, or do you put the card number and the section number?

A. The card number and the section number, I think?

Q. Have you always used this procedure?

A. Yes, sir, right from the beginning.

Q. How soon after you took office did you receive these cards?

A. Oh, I had some printed of my own when I first took office, of the Louisiana Constitution, and also of the United States Constitution. And I guess it may have been a year after that that I received them, as well as I can remember. And then I used them. I tore up my little cards, the ones I had printed, you know, and I used the ones that the state office sent me.

Q. The ones you had printed yourself, did you select the provisions?

A. I just took them at random through the Constitution of Louisiana and the United States, of course.

Q. Did they have three provisions on each card?

A. No, they had two, I believe.

Q. Did you use them the same way that you use these?

[fol. 761] A. Yes, sir.

Q. In making up your own mind as to what would be a satisfactory answer to each of these provisions, did you do anything other than read the provision yourself?

A. I beg your pardon?

Q. Well, with these cards, I take it that you have in your own mind some idea of what the correct interpretation is?

A. I know the correct interpretation to most of them, but any reasonable interpretation—in other words, for instance, if a man takes the one on religion—every person has the right to worship God according to the dictates of his own conscience. Well, if a man comes in there and says, "Well, I can go to the church of my choice," or, "I can worship any religion I want to," I accept it. But if he says—for instance, I've had them come in there and say, "Well, that's freedom of speech." I turn him down.

Q. How about if he says freedom of religion?

A. Pardon?

Q. If he said freedom—

A. I accept that. Any reasonable interpretation.

Q. Getting back to my other question. In determining what would be a reasonable answer to these, did you do anything to find out what the interpretation was other than read the provision yourself?

A. Well, I looked them up.

[fol. 762] Q. Where did you look them up?

A. Well, in the world atlas or some book. I don't remember what it was—some law book.

Q. Did you seek the advice of anybody?

A. Yes.

Q. Who?

A. Well, some of the local attorneys there.

Q. And did they explain to you what these provisions were?

A. Yes.

Q. Have you received any advice or suggestions from anybody else as to how to conduct the test?

A. No, except through the Board of Registration, I mean, they told me to use the Preamble, you know. They all—whenever they sent it to us and the law was passed, they instructed us how to use it.

Q. After the applicant selects the card and reads it aloud, is he allowed to keep the card while he gives his interpretation?

A. Is he allowed to keep the card?

Q. While he interprets—

A. Yes, he is.

Q. —or must he hand it back to you first?

A. No, sir, he is allowed to keep it.

Q. You do not make a record of the answer that he gives?

A. No.

Q. Or whether he passes or fails?

[fol. 763] A. No. If he fails, I told you, I put the constitutional questions that he—that was asked him, but I don't keep the answer to it, you know. But the card that he failed on, I do keep a record of that on his application.

Off the Record Discussion

By Mr. Dunbaugh:

Q. Who was the registrar before you?

A. Mrs. Jim Perkins. She retired due to her age. She's quite old, I think maybe she's 80 now, you know.

Q. Did she talk with you when you first took office?

A. Did she?

Q. Yes.

A. Well, yes, she did. She just—I went in there, you know, and she gave me the key, and we had a little talk, and she had her daughter-in-law as a deputy at that time, I believe, and I talked to her, too.

Q. Did either of them explain to you how the test worked?

A. Well, they was giving the test out of the Constitutional book at that time. They were only making them read it, I believe, and she told me.

Q. Did she have them interpreting it, or just reading it?

A. I think she just had them reading it. Now, I'm not sure about that, I wouldn't know. I wouldn't know.

Q. Well, what did you have to do when you registered the last time?

A. Pardon?

[fol. 764] Q. When you registered the last time, did you just read it, or did you explain it?

A. No, I just read it, and—well, I did explain it, I believe. I'm sure I read it, I don't know whether I explained it or not. She told me to read a section of it and I did that—the Louisiana Constitution.

Q. Why did you change it from what she had been doing?

A. Well, I found out what the duties was of the registrar, and what the law said to do, and that's—that's the reason I changed. I was just trying to follow the law.

Q. Didn't you think that she was following the law?

A. Well, I wouldn't—I wouldn't be in a position to judge that. The only person that I ever saw them register was myself, you know. I wouldn't know what they gave the other applicants.

Q. Did anyone suggest to you that you change the procedure from what she had been doing?

A. The police jury told me they wanted me to follow the law right down the middle of the road, and after all, they—

Q. Did they expand on that, give you any further idea of what they meant by that?

A. No, just told me to follow the law, to treat everybody alike that came in.

Q. No further questions.

Mr. Kron: I have no questions.

Witness excused at 11:28 A. M.

[fol. 765]

PLAINTIFF'S EXHIBIT No. 21Y

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

STATE OF LOUISIANA, et al., Defendants.

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Deposition of MRS. ESTELLE WILDER, taken at instance of and on behalf of the Plaintiff; August 24, 1962, in the Rapides Parish Courthouse, Alexandria, Louisiana.

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MRS. ESTELLE WILDER, witness called on oral examination by Counsel for plaintiff; first duly sworn, did depose and say, to wit:

[fol. 766] Examination.

By Mr. Dunbaugh:

Q. State your name and address, please?
A. Mrs. Estelle Wilder, Chatham, Louisiana.
Q. And you're the Registrar of Voters of Jackson Parish?
A. Yes.
Q. How long have you been Registrar?
A. Since 1951.
Q. When and where were you born?
A. I was born in 1907 in Jackson Parish.
Q. Have you lived in Jackson Parish all of your life?
A. Yes.
Q. What education do you have?
A. I finished high school and I have about 18 college hours at Louisiana Tech.

Q. When you first took office, did anyone explain to you what you would have to do, what your job was about or what the procedure was?

A. Well, no. Of course, I had the rules and regulations that was put out by the Board of Registration to go by; and any time anything came up, I had an Attorney that I could consult about any legal matters that came up.

Q. What was the registration procedure at the time you first took office?

A. Well, when I first went to work, it had been the procedure in the Parish for the Registrar to fill out everyone's [fol. 767] application, and I continued that procedure until the first of 1953.

Q. And what change did you make in the procedure then?

A. At the beginning of 1953, I began asking each individual to fill out his own application.

Q. Were there any other requirements, other than filling out the application?

A. At that time, no.

Q. Is there any other requirement now?

A. Yes.

Q. When did the procedure change, then, from the applicant having to fill out the application to something more than that?

A. On March 16, 1960, I started using the constitutional test.

Q. Was that the first time that you had used the test?

A. Yes, with the exception of the registration of illiterates. You see, at that time illiterates could register if they could interpret a portion of the constitution when read to them by the Registrar. Other than the illiterates, that was the only one that I used the constitution on until March 16, 1960.

Q. Now, why did you start using the interpretation test, then?

A. Well, I took it on myself to start using it. As you know, I had been under investigation from various angles, and I knew that I was not strictly adhering to the Louisiana law in registering people, and I decided that I would be more strict.

[fol. 768] Mr. Kron: May I ask a question there? Under investigation, you mean by that the subpoenas to the Civil Rights Commission hearing, etc.; those kind of things?

A. Yes, and I had been before the Federal Grand Jury too, you know, before that.

Mr. Kron: Yes.

By Mr. Dunbaugh:

Q. That was in connection with a purge of the voter roles—?

A. Yes.

Q. —in 1956?

A. Yes.

Q. Did anyone suggest to you that you should change that procedure, that you should start using the test?

A. No, they did not.

Q. When you decided to use the test, did you seek the advice of anyone as to how it should be used and what the test consisted of?

A. No, with the exception of—oh, I might have once or twice; I would consult with Mr. Emmons, the Assistant District Attorney, to be sure that I knew the interpretation of it myself before I used it.

Q. Now, has the procedure for registration in Jackson Parish changed any since 1960?

[fol. 769] A. Well, yes, to a certain extent it has. As the Board of Registration—as the new laws have been passed and as the Board of Registration advised me, I would make those changes.

Q. What changes have been made?

A. Well, in regard to the constitution; when I first started using it, I let the applicant read the constitution and interpret it themselves; but that law has been changed, and now the law says the Registrar reads a portion of the Constitution to the applicant.

Q. What is the full procedure for registering to vote in Jackson Parish, what is the first thing that an applicant must do?

The Witness: Well, do you want me to start with identifying them first?

Mr. Kron: Let's assume that I come into the office to apply; Mr. Dunbaugh wants you to tell him just exactly how you would go about the application, from beginning to end.

A. Well, if I did not know you, of course I would request an identification of some kind; I would accept drivers license, or something reasonable that you might have. I do not request two registered voters to identify you.

After you had identified yourself, I would question you as to how long you had lived in the State of Louisiana and in [fol. 770] Jackson Parish, and in the ward and precinct.

If you had said you had lived there the required length of time, I would have you read a portion of the preamble to the Constitution. Then under "remarks" on the application, I would have you write a portion that I would dictate to you.

Q. The reading is aloud?

A. Yes, the reading is aloud. After you had written what I had dictated to you, I would have you turn the application over to the front and start filling it out. I might say here, when I first started using the constitution, that would be the first thing that I would do, but I do not now.

Q. Do you recall when you changed that order?

A. Well, the Board of Registration sent a procedure to go by, and I think that is when I changed.

Q. Did they send a letter of suggested procedures?

A. Yes.

Q. Could you recall whether or not that was the letter dated January 16, 1961?

A. I have it with me, I believe; I'll see. January 16, 1961.

Q. All right. Now, after the applicant fills out the application form what's the next step in your present procedure?

A. Well, of course I check it as to the correctness of it, and then I read him a small and simple portion of the constitution for him to interpret.

Q. And he then interprets it to you orally?

A. Yes.

[fol. 771] Q. Now, do you evaluate each step as it goes along? In other words, if a person doesn't read to your satisfaction, do you stop him at that point, or does he go on

through the whole procedure; like with the preamble in the first instance, if he reads the preamble to you and you're not satisfied with that, would you stop him at that point?

A. In most cases I do, yes.

Q. How about when he writes, the same thing; do you evaluate it at the time that he does it?

A. Yes.

Q. And on the application card, if he doesn't do that to your satisfaction, does he go on to the interpretation, or does he stop?

A. No, I do not use the constitution if his application is unacceptable.

Q. Is any record made of the provision that you read to the applicant, of his interpretation?

The Witness: For each individual?

Mr. Dunbaugh: Yes.

A. No.

Q. Is any record made of the answer he gives?

A. No.

Q. What source do you use for the provisions that you ask about, do you use some cards or a book, or what?

A. I use a book, I have a book that has the constitution in [fol. 772] it, I use that. I have never used cards.

Q. This is the Constitution of Louisiana?

A. No.

Q. The Federal Constitution?

A. The Federal Constitution.

Q. You only use the Federal Constitution?

A. I may have used, a few times, the Louisiana Constitution; very few. I have a copy in my office, but if I used it, it hasn't been over 2 or 3 times; in most cases I've used the Federal Constitution.

Q. Do you ask applicants about all of the provisions in the constitution? I don't mean one applicant for all of the provisions, but do you use every provision in the constitution at one time or another?

A. No.

Q. I take it, then, you've limited the portions of the constitution that you have used?

A. Yes.

Q. Do you know which sections you have used?

A. I jotted down a few. There may have been a few other than this that I have used, but these are the main portions that I use—have been using. In fact, in the last few months I have only used two portions.

Q. Which two are those?

A. One is Amendment 19, which is in regard to woman sufferage.

[fol. 773] Q. What is the other one?

A. It is the second paragraph of Section 7, Article 1, which reads: "Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States."

Q. All right. Now, what other sections have you used recently?

A. "The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided." That is another section that I quite often use.

Q. Do you have the number of that section?

A. That's Article 1, 4th paragraph of Section 3.

Q. Any others?

Mr. Kron: May I suggest, if it's agreeable, that the numbers of the articles will be sufficient, without reading the entire article into the record.

The Witness: All right, sir.

Mr. Kron: Just indicate the numbers, and that will suffice. Is that correct?

Mr. Dunbaugh: Well, I would like her to give some of it, just the gist of it, if she will.

Mr. Kron: Well, all right, then, go ahead as you had planned.

A. Another one is Amendment 20, Section 2; "Congress [fol. 774] shall assemble at least once in every year, and such meetings shall begin at noon on the 3rd day of January, unless they shall, by law, appoint a different date."

Another one is Amendment 10; "The powers not delegated to the United States by the Constitution or prohibited by it to the states, are reserved to the states respectively, or to the people."

Q. Are there any others?

A. "The House of Representatives shall be composed of members chosen every second year by the people of the several states"; Section 2, Article 1. Amendment 17; "The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof for six years." "All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." I believe that's all I have jotted down here.

Q. Now, when did you first select these, the ones that you would ask about?

A. When I decided to start using the constitution.

Q. How did you go about selecting them?

A. Well, I tried to find easy portions. simple portions that I understood.

Q. Did you obtain a copy of the constitution from someone?

A. Yes.

[fol. 775] Q. And did you read through it?

A. Yes.

Q. And you selected these provisions as the ones that you decided to use?

A. Yes.

Q. You said that sometimes you had used the Louisiana Constitution?

A. When I first started using the constitution, I may have used it a few times, but I use the Federal Constitution altogether now.

Q. When an applicant comes in, how do you determine which of those sections you are going to ask him about?

A. Well, I just decide which one at random.

Q. Do you just open the book and pick out one?

A. Yes.

Q. You said that sometimes you use a provision other than those you have mentioned here, that you most frequently use; how do you determine, in the case of a particular applicant, that you're going to use something different than these?

A. Well, when anyone comes in, I just—I just select one; it doesn't matter, just so I think that it's simple. I think they're all simple that I have selected.

Q. After you have read the provisions aloud to the applicant, do you then hand the book to the applicant, to look at while he is explaining it?

[fol. 776] A. No.

Q. Will you read it over again for an applicant?

A. Yes, I have; if they requested it, didn't understand it the first time, I have read it the second time.

Q. And will you define a word for the applicant if he doesn't understand it?

A. No.

Q. What sort of an interpretation are you looking for from the applicant?

A. Just a general interpretation. I do not expect them to go into the details, just give me a general idea that they understand what I have read to them, that's all I request.

Q. Now, for instance, you sometimes ask about the Tenth Amendment; what would you expect an applicant to tell you about that?

A. Well, they could say that the states have certain powers; they could just make any remark that would make me think that they understood what I had read them. That would be sufficient.

Q. Would it be sufficient for them to just say, "States Rights"?

A. Well, I expect them to say that the states have certain rights.

Q. Do you have a deputy?

A. Just part time.

Q. Does she handle applications?

[fol. 777] A. Yes.

Q. And what is your deputy's name?

A. Mrs. Gladys Futrell.

Q. When did she start working for you?

A. I don't recall the date that she started working, it's been some 3 or 4 years ago.

Q. When you started to using interpretation tests, did you explain the procedures to her?

A. Yes.

Q. What did you tell her to look for in the way of answers to these questions?

A. Just that the person give some— show some reasonable knowledge of what she has read to them.

Q. Is that a knowledge about the subject matter outside of what has been read?

A. No, knowledge of what she read to them from the constitution.

Q. If an applicant does not understand, or is not able to satisfy you that he understands a particular provision, will you then read another provision to him?

A. No.

Q. This procedure that you've adopted—that is, to use the Federal Constitution rather than the State Constitution; you use particular sections of the Federal Constitution, rather than other sections of the Federal Constitution, and to have the interpretation given orally; the various aspects [fol. 778] of this procedure, was that your own decision to do it that way, or were you under instructions to do if that way?

The Witness: You mean when I first started using the constitution?

Mr. Dunbaugh: Yes.

A. I tried to use it like the Louisiana law required.

Mr. Kron: I don't think the answer is responsive, but let me say that I think the question has already been answered at the very beginning, when the witness stated that she began it in 1960; brought about by her self-admission that she had not strictly applied the rules, and that as a result of these investigations she began to give the test.

I'm not trying to testify for the witness, I'm just trying to clarify the question in her mind. If you would like to repeat the question—

Q. Yes. Well, you said that you were following the procedures of the Louisiana law?

A. Trying to, yes.

Q. Did someone explain to you what the Louisiana law requires, or did you figure out for yourself what you felt the Louisiana law requires?

[fol. 779] A. I figured it out for myself, it is in the registration laws.

Q. And you received no instructions or suggestions from anybody as to how you should apply the interpretation?

A. No, I did not.

Q. And with respect to determining whether or not a particular applicant's interpretation is satisfactory, are you the sole judge of that?

A. Yes, I am.

Q. Do your procedures ever change; for instance, when there is a rush in registration, or something like that?

A. Well, yes, occasionally it does.

Q. In what way is it different?

A. Well, it might—I have had it to happen in such a way that I would give the applicant his application first and have him fill that out; I've had the telephone to ring, which required my attention right then. I have done that a few times, but not often. My usual procedure is as I described to you a while ago.

Q. Did you say that at one time you had the applicant read the provision himself and then interpret it?

A. Yes.

Q. And when did that change?

A. I answered that question a while ago. It was when we got the suggested procedures from the Board of Registration.

Mr. Dunbaugh: Mr. Kron, any questions?

[fol. 780] Examination.

By Mr. Kron:

Q. While we're on this subject of the change of procedure, I understand your testimony to mean that if there are any changes of procedure, other than your customary method; they are brought about by circumstances of the moment, and these changes are not made or used as a design or a plan to make it more difficult for any particular person to register; is that true?

A. That's true.

Q. Now, going back to the selection at random of the particular section of the Federal Constitution or its amendments that you give to the applicant; is it or is it not true that those too are given literally at random, and are not selected by you with any design or plan to make it more difficult or more easy for any particular applicant at that time; is that correct?

A. That's correct.

Q. Have you or have you not ever used a more difficult interpretation test in any individual case, either to permit the applicant to register or to deprive him of the opportunity to register?

A. I have not.

Q. Have you, in line with your own personally established policy, used this test in your own fair judgment and indiscriminately as to all persons applying?

[fol. 781] A. I have.

Q. Now, just one or two more questions as to the statistics in your office. Mrs. Wilder, do you have permanent registration?

A. Yes.

Q. How many persons, approximately, do you have in total registration at this time?

A. It runs over 6,000. I don't have that exact figure at my fingertips right now.

Q. Approximately how many of those are negroes?

A. Four hundred seventy-five approximately. It might run a few more.

Q. Now, then, why in your opinion are there not more negroes on your rolls at this time? Let me withdraw that question and preface it by asking you this question. Roughly, since, say, the 1st of January of this year (1962), how many negroes have been rejected?

A. Very few, because I have had very few to come into the office this year.

Q. Would they, proportionally and percentagewise, be equal to the number of white applicants who have been rejected?

A. I'm sure they would.

Q. I go back now to the question: Why, then, in your opinion, are there not more negroes registered in your parish at this time?

Mr. Dunbaugh: Mr. Kron, I'm not sure that the opinion of the witness is—

[fol. 782] Q. To change the phraseology of the question, then: Why are there not more negroes registered in your parish at this time?

A. Well, I think one reason is that they are not as educated as the white people, to begin with; then, for the last few months there have not been as many come in to register.

Q. Do you have a reject file in your office?

A. Yes, I do.

Q. Are there more negro applicants rejected for failure to properly fill out the LR-1, or is the principal cause for rejection, failure of the constitutional interpretation test?

A. Well, the principal reason is because of failure to fill out the LR-1 card.

Q. Would you know offhand, again, how many, approximately, negro applicants have been rejected because of their failure to pass the constitutional interpretation test?

A. No sir, I do not know.

Q. But it would be less than those who failed to fill out the LR-1 properly?

A. Yes, it would.

Mr. Kron: That's all.

Re-examination.

By Mr. Dunbaugh:

Q. Prior to the purge, say during the time of the summer of 1956, how many negroes were registered in Jackson Parish?

A. Approximately 1,100.

[fol. 783] Q. Are there some provisions that you've never asked an applicant to interpret, some provisions of the constitution that you've never asked?

The Witness: That I have never—?

Mr. Dunbaugh: Never asked an applicant to interpret.

A. Oh, yes.

Q. Why have you not used these?

A. I've already stated that I tried to select simple portions that I felt would be easy for the people to understand, and also that I was sure that I knew the meaning of.

Q. Are there some provisions that you do not know the meaning of?

A. Yes.

Q. Do you expect an applicant to be able to understand the provision as well as you understand it?

A. Well, not necessarily so, because I have access to it all of the time and I go over and over and over it; and just reading it to them one time, I feel like I might know more about it than the person.

Q. Do you expect that he understand it as well as the average man understands it?

A. Would you repeat the question, please.

Q. Do you expect that an applicant understand the provision as well as the average person in your experience could understand it?

A. Yes.

[fol. 784] Q. Do you have in the back of your mind key phrases or key ideas about these sections that they should be able to hit upon in their answers?

A. No, I don't think so. As I stated, I do not expect detailed remarks about it.

Q. Now, you have said that you limit the interpretation tests pretty much to these sections that you recited to us earlier—?

A. Yes, sir.

Q. —have you ever published a list of these sections?

A. No.

Mr. Dunbaugh: That's all.

Re-examination.

By Mr. Kron:

Q. Does the law require you to publish a list of those sections?

A. No.

Mr. Kron: No further questions.

Witness excused.

[fol. 785]

PLAINTIFF'S EXHIBIT No. 22A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of HUGH E. CUTRER, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the offices of Janet L. Parker & Associates, 1211 Louisiana National Bank Building, Baton Rouge, Louisiana, on the 9th day of March, 1962, commencing at 11:10 A.M.

APPEARANCES:

Frank M. Dunbaugh, III, Esq. and John Doar, Esq., Civil Rights Division, U. S. Department of Justice, Washington, D. C., for Plaintiff.

Harry J. Kron, Jr., Esq., Louisiana State Attorney General's Office, Louisiana State Capitol, Baton Rouge, Louisiana, for Defendant.

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[fol. 786] The witness, HUGH E. CUTRER, having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name, please?
A. Hugh E. Cutrer, Jr.

Q. And your address, Mr. Cutrer?

A. 531 North Border Drive, Bogalusa.

Q. Do you hold an official position with the State?

A. I do.

Q. What position is that?

A. I'm director of the State Board of Registration.

Q. Where is your office located?

A. It's located at 1 B Pentagon Court Building, Baton Rouge.

Q. How long have you held that office?

A. Since August of 1960.

Q. Who was your predecessor?

A. Mr. Edgar Coco.

Q. Do you know who was director before him?

A. I believe Mr. Douglas Fowler was, I'm not sure of that, now. It could have been one in between there.

Q. Do you know who was director before that?

A. No.

Q. How and when were you—we know when you were appointed, how were you appointed—by whom were you appointed?

A. I was appointed by the governor who is the chairman of the Board of Registration.

[fol. 787] Q. You serve at his pleasure?

A. I serve at the board's pleasure.

Q. What did you do before you were director of the State Board of Registration?

A. I am in private business—insurance and real estate.

Q. In Bogalusa?

A. Yes.

Q. Have you ever held an official position before?

A. Yes.

Q. What position was that?

A. I am commissioner of Streets and Parks in the city of Bogalusa—elected official.

Q. No other state office?

A. No.

Q. How large a staff do you have?

A. We have two full time secretaries—part time college people that work during the summer months.

Q. What are the names of your secretaries?

A. Mrs. Beatrice R. Harris and Mrs. Mary Cooper.

Q. You have no professional assistants?

A. No.

Q. Could you describe the nature of your office, your duties and functions?

A. Me—my office or my job itself?

Q. Your job, yes, sir.

A. My job. I mostly act as a liaison officer to the 64 parishes where we have parish registrars to see to their [fol. 788] needs, help them in problems they might have, set up different types of registration whether it be permanent or periodic which are the two types we have.

Q. Do you and your office have any other duties or activities?

A. No.

Q. Now, in dealing with the individual registrars, do they report to you—do they submit written reports?

A. Monthly reports, yes.

Q. What do those reports consist of?

A. They consist of the number of registrants they have in that parish broken down by white, colored and illiterates.

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Are those the 4 form reports that contain a list of new registrants for the month—transfers for the months?

A. Yes.

Q. Persons scratched from the rolls for the month?

A. Right.

Q. And statistical totals for the month?

A. Correct.

Q. And the first three that I mentioned, I think, give the name and race of each individual?

A. That's right.

Q. How far back do these reports go?

[fol. 789] A. I couldn't say any further back than August, 1960. I know they've been coming in since then. Now, how far back they go, I couldn't answer that question.

Q. Do you ever go out to the parishes and visit with the registrars?

A. Yes, sir.

Q. And does your office have any record of the trips that you make?

A. Yes, sir.

Q. What sort of record would that be?

A. Well, it's a record as far as my expenses go to show which parish I've been to. I make no record for—of what transpires between the registrar and myself. There's a record of my travel.

Q. A travel voucher or something like that?

A. I beg your pardon.

Q. What is it—a travel voucher or something like that?

A. Yes, it's a travel voucher as to where I've been.

Q. Would that be maintained in your office or do you submit that to some other office?

A. Well, it's maintained in our office, and we also submit it to the division of administration.

Q. Have you ever had occasion while visiting registrars to observe what procedures they use?

A. Yes, sir, that's the reason I visit them.

Q. Do you know which registrars use the tests—

A. Approximately, I know most of them—

[fol. 790] Q. —the interpretation tests I'm speaking of?

A. —yes.

Q. Which ones do you recall using them?

A. Which ones do I recall using them?

Q. Yes.

A. Well, Mr. Mitchell uses it in Shreveport. I don't like to go and try to name them all, I mean, I'd say—I'd say about 30 percent of them use the test actually.

Q. Do you have any record in your office which would show which ones use it and which ones don't?

A. No.

Q. Could you name a few that you do recall?

A. Could I name a few?

Q. Yes.

A. Well, Mrs. Cutrer in Calcasieu Parish uses it, Lillieon —L-i-l-l-i-e-o-n Cutrer.

Q. It would suffice just to give the parish, if you recall which ones use it.

A. All right. Well, I gave you Caddo, Calcasieu, Claiborne, Livingston, Natchitoches, Morehouse, Webster, Tangipahoa, St. Tammany, Washington, Rapides, Lincoln—did I give you Claiborne?

Q. Yes.

A. Claiborne.

Q. Do you figure there are any others, sir, than those that use it?

A. To my knowledge, no, sir, I don't know of any others.

[fol. 791] Q. How are the registrars appointed?

A. They are appointed by the police jurors of the parish.

Mr. Kron: I object to that. The statute provides that.

By Mr. Dunbaugh:

Q. Well, do you have records on each registrar—a personnel file of some sort?

A. A personnel file?

Q. Yes.

A. No, sir.

Q. Do you have such things as the names and addresses and pay records?

A. We do that, yes, sir. We don't have the pay records. We have nothing to do with their pay.

Mr. Kron: I object to that. The salaries of the registrars are also provided by statute.

By Mr. Dunbaugh:

Q. But you do have a record that would show the names and addresses of each one?

A. Yes, sir.

Q. Would it show anything else about them—would it show their education—do they have any personnel data form that they turn in?

A. No.

Q. Do they take any exams or are there any prerequisites [fol. 792] to being a registrar?

A. To my knowledge there are none.

Q. You have no record that would show their educational level?

A. No, sir.

Q. Do you send out materials to new registrars when they are appointed?

A. Yes, sir.

Q. What sort of materials do you send them?

A. Send them routine materials that all registrars are provided with.

Q. What are those?

A. Different types of forms that they use in their office to register people.

Q. Do you send them a copy of some handbook or other?

A. No.

Q. How about the statute—registration law?

A. They are provided with that by the Secretary of State's office.

Q. You don't send that to any registrar?

A. No.

Q. You say you send out forms, I take it you mean the standard application forms?

A. Yes. The cards that you fill out that they register the people with.

Q. Do you provide those for each parish?

A. In some cases we provide types of forms—under the [fol. 793] permanent registration we did that. The state legislature provides funds for us to furnish these people with these different type forms.

Q. But I take it the normal application form is not provided by you to all parishes?

A. No, sir. The registrar himself is responsible for obtaining those.

Q. When a new registrar is appointed do you send him a sample copy of each different type of form that's generally used?

A. No, sir. They have this already in their office so we don't send them out.

Q. Well, you said—

A. The old registrar would have had them and passed them on. If he needs forms—he orders them if he needs them.

Q. Well, you said you sent them some forms—I'm trying to get now exactly what forms—

A. Well, I had reference to—actually when a parish changes into what we call a permanent registration that's the type of forms we provide them with.

Q. When a new registrar takes office you don't send him any materials such as a copy of the board's regulations—

A. No.

Q. —or resolutions of the board? How are you advised—how is the board advised that the police jury has appointed [fol. 794] someone?

A. How is the board advised?

Q. Is there some certificate of appointment by the police jury?

A. Yes. The Governor, I imagine, issues—I've never seen one. I imagine there's a certificate issued by the Governor's office appointing him a registrar. I've never seen one, that type of certificate, but I mean, I would imagine it would have to come through him.

Q. Then I take the registrar takes an oath of office?

A. Yes, sir.

Q. Are those records maintained in your files?

A. No, sir.

Q. They're not?

A. Not in my files, no, sir.

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Now, do you get inquiries from time to time from the registrars concerning procedures?

A. Yes, sir.

Q. Where would those be kept?

A. Where would they be kept?

Q. Yes, how do those inquiries come in—in what form?

A. By mail or by telephone. When it's written—when it's a letter we naturally keep copies of it in our file. If it's a telephone call seeking information, well, we simply answer [fol. 795] it, we do not make a record—permanent record of that.

Q. Is there a record kept of incoming and outgoing phone calls—

A. No.

Q. —by your secretary? How are these correspondence files maintained—by parish or chronologically or what?

A. By parish.

Q. What other materials would be in the file for a particular parish then?

A. Anything pertaining to information sent out or advice to that particular registrar.

Q. Do the registrars sometimes come into your office—

A. Yes, sir.

Q. —with inquiries?

A. Yes, sir.

Q. Does your secretary maintain an appointment book that would show their visits, then?

A. No.

Q. What instructions do you give to registrars concerning the use of the interpretation tests?

A. We haven't given them any instructions concerning the use of that particular test.

Q. Well, you said that they made inquiries from time to time. Did they ever inquire about it?

A. Yes, they inquired about it.

[fol. 796] Q. Would your answer, then, be reflected in the letter that you wrote back to them?

A. Yes.

Q. There's a letter introduced into the Manning trial dated January 16, 1961, in which you set forth suggested procedures for registrars.

A. Yes, sir.

Q. Do you have a copy of that there?

A. Yes.

Q. Now, there you set forth suggested procedures for registrars on just about all aspects?

A. That's right.

Q. I take it that this represents a policy statement by the Board of Registration?

A. That's true.

Q. Did the board hold a meeting or something along those lines and advise you to send this out?

A. No, sir. The board didn't hold a meeting. The board members—we met with registrars—the older registrars throughout the state to compile this information. This information was taken from these registrars in trying to determine an easy, uniform procedure which all registrars would follow.

Q. What registrars met with you on this occasion?

A. Mr. Charles Mitchell, Caddo Parish, Mr. Jody Smith of East Baton Rouge Parish. I believe that was the only two.

[fol. 797] Q. Well, was anyone else present?

A. Oh, yes. Members of the Sovereignty Commission were there, the District Attorney from Baton Rouge was there, Mr. Sargent Pitcher.

Q. What members of the Sovereignty Commission were there?

A. Mr. Frank Voelger, chairman of the Sovereignty Commission was there, Mr. John Deer, the Executive Secretary, was there. I don't know if I can remember the rest of them, there was several others—Mr. Charles Page. I don't have that information with me. I had it in my files with the minutes of the meeting, but I don't have it here now to tell you exactly who was there.

Q. Minutes were taken of the meeting and you have that in your file?

A. Yes, sir. Not here—I have it in my office file.

Q. Were any other drafts of this letter put together first—suggested? I take it this was worked over somewhat with them.

A. Yes. At the meeting it was worked over in rough form and we compiled it into this letter you referred to dated January 16.

Q. Do you have the other drafts in your files?

A. Yes, sir.

Q. Was this all accomplished with one meeting or was there more than one meeting?

A. There were two meetings.

Q. Do you have minutes from both meetings?

[fol. 798] A. Yes, sir.

Q. What was the—was this just an informal gathering or was this some committee that had been appointed or something to look into it?

A. I would say it was more or less informal of interested people to actually suggest steps and which these registrars would follow. As pointed out in my letter that we submitted that for suggestions only—for the registrars to adopt some sort of uniform procedure to determine whether a person is qualified to register or not.

Q. I take it that the group together didn't really turn out the letter—I assume that they advised you to?

A. The group together composed the steps. My office wrote the letter under the instruction of that committee.

Q. Are those instructions contained in the report that came from the meeting or something like that, or—

A. Yes.

Q. Is that in addition to the minutes, I mean, is the report that that committee drafted?

A. I was authorized by the committee to write this letter subject to these procedures that we thought would be best suitable to each registrar of each parish.

Q. You mentioned a Mrs. Cooper—is she the M.M.C. out here that typed it?

A. Yes.

Q. Was this sent to all registrars?

[fol. 799] A. Yes, sir.

Q. When were these meetings held?

A. When were the meetings held?

Q. Yes, sir.

A. I'd have to get my minutes to actually give you the exact date. They were held within a month of one another—I'd say either in December—probably in December—

Q. Yes.

A. —and maybe January.

Mr. Kron: Shortly prior to the issuance of this letter.

By Mr. Dunbaugh:

Q. And where were they held?

A. The first meeting was held in the Board of Registration's office—my office, and the second one was held in the State Capitol building.

Q. In whose office there?

A. In the committee room downstairs—no one's office.

Q. Have there been any other letters of this sort that you sent out to all registrars requesting a policy or suggestions?

A. Not a procedure to follow, no. We send out correspondence all the time answering questions about different types of registration problems the registrar might have.

Q. I meant something of a general nature such as this?

A. No, sir.

[fol. 800] Q. Have meetings concerning a suggested procedure other than the two that led up to this letter been held?

A. Have meetings been held?

Q. Concerning suggested procedures?

A. Yes, we had a meeting here last week I believe it was.

Q. Are there minutes of that meeting?

A. I assume there are. I didn't take any myself. I don't know.

Q. Well, would your office have them if there are any?

A. No, we don't have them.

Q. Well, who would have them?

A. I don't know. I was just invited to attend the meeting.

Q. Who was at the meeting?

A. (The witness did not reply.)

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Does the Board of Registrars ever meet?

A. They are meeting now in a convention in New Orleans.

Q. I meant as a board itself?

A. You mean the Board of Registration?

Q. Board of Registration, I'm sorry.

A. I have never met with all of them together at one time, no, sir.

Q. Are there any minutes of their meetings?

A. There hasn't ever been a meeting that I know of with [fol. 801] all of them together.

Q. Are there meetings where two of them are present?

A. I don't believe there has been a meeting where there have been two present.

Q. The Board of Registration is authorized by law to promulgate rules and regulations. Have they done so, do you know?

A. Have they done so?

Q. Yes.

A. I think we have.

Q. Would those be on file in your office in written form?

A. Yes.

Q. How about resolutions of the board?

A. There have been no resolutions of the board since I've been director of it—that I'm aware of.

Q. Now, late last year, I understand, that the Board of Registration advised the registrars throughout the state to enforce the tests—the interpretation tests. How was that done?

A. I have no knowledge of that. I wasn't present.

Q. Were letters sent out to them from the board?

A. Not from my office there wasn't.

Q. Have any of the registrars told you that they received letters from some other office—

A. No.

Q. —along those lines?

A. No, they haven't.

[fol. 802] Q. Do you know if the board adopted a resolution to that effect?

A. To my own knowledge I couldn't say that I know that they did adopt a resolution to that effect.

Q. Have you ever seen a written resolution to that effect?

A. I haven't seen a written—what type resolution do you refer to, now? By whom was the resolution signed?

Q. That's what I'm trying to get at. A resolution adopted by the board advising the registrars to strictly enforce the interpretation tests. This was reported in the—

Mr. Kron: It's contained in paragraph 24. It's in a resolution.

By Mr. Dunbaugh:

Q. Do you have the resolution with you, or a copy?

A. That's what I was looking for. I don't think I do have a copy of it. I know the resolution you have reference to, or at least I think I know the one you have reference to. I would like to be able to find it to see if that's what you are talking about. Yes, I have a copy of it right here.

By Mr. Doar:

Q. Could we look at it, please?

A. Yes, sir.

(Mr. Dunbaugh and Mr. Doar looked at the resolution.)

Mr. Doar: It refers to attached standard forms. Have you got those, too?

[fol. 803] Mr. Kron: Yes. This is all part of the document. All of this.

By Mr. Dunbaugh:

Q. Mr. Cutrer, are you familiar with the adoption of this resolution—

A. No, I'm not.

Q. —and the instructions to registrars that's attached thereto?

A. I'm familiar with having read it just like you are, I mean, as far as the adoption of it itself, I was not in the meeting, I do not know anything about it other than it was adopted at the meeting. A copy was sent to me.

Q. You did not attend any meetings at which this was discussed and planned?

A. No.

Q. Do you know who did attend such a meeting?

A. No, I don't.

Q. Where did you obtain a copy?

A. It was sent to me through the mail.

Q. By whom?

A. I couldn't say exactly where it did come from—the Governor's office or—

Q. There was no letter attached?

A. Only what you have there.

(Off-the-record discussion.)

By Mr. Dunbaugh:

[fol. 804] Q. I'd like to get some idea of what records are maintained in your office. You turn out a monthly statistical report?

A. Yes, sir.

Q. To whom is that report made?

A. To whom is it made?

Q. Yes.

A. Well, we send copies to a lot of people. Send it to all the legislators of the state, send it to senators and representatives—United States senators and representatives. We mail it to some newspapers.

Q. It's not in the form of a report being made by you to some other agency or official of the state?

A. No, it's something we make for our own use and benefit to send to our people.

Q. How do you decide who's on the mailing list?

A. Well, whoever asks to be on it. We have people that—different organizations write and ask for copies of it. We have no way of putting someone on or taking someone off.

Mr. Kron: The Attorney General's office asked for some copies to defend these lawsuits with.

A. We'd even have to send you copies, if you like.

By Mr. Dunbaugh:

Q. Do you make any reports to other agencies, to the Governor, or to the Secretary of State?

A. The Governor's office is sent copies of these reports, [fol. 805] yes.

Q. Any other reports?

A. No.

Q. Do you maintain a file on the registration statute such as would reflect its legislative history?

A. I'm not sure I understand exactly what you mean.

Q. Well, would you have a file of minutes of meetings held to discuss proposed legislation?

A. Yes, if we had a meeting in my office we'd have a record of that in our files, yes, sir.

Q. Has any research been done by your office in old legislation on registration?

A. No.

Q. Would you say that all the records in your office, then, relate to the registration of voters in Louisiana?

A. Yes.

Q. Are they all official records?
A. Yes, I'd say they were official.

Mr. Kron: All of those records are public records.

A. Public records, yes, sir.

By Mr. Dunbaugh:

Q. Have the individual registrars ever reported to you concerning the visits made to them by people from other agencies such as the Sovereignty Commission?

A. Yes. They haven't actually reported to me about it. We have discussed it. When I'd visit them they would [fol. 806] tell me that a representative of the Sovereignty Commission had been in and talked with them.

Q. Other than Mr. Niklaus, did they mention anyone else?

A. Well, the only other one I can think of at the moment is Mr. Charles Page. He visited some of our registrars.

Q. Now, which registrars have been so visited, do you recall?

A. Who Mr. Page visited?

Q. Well, any—been visited by either Mr. Page or Mr. Niklaus?

A. Well, I know of only a few to my own knowledge that was personally visited and discussed it with me. I imagine they would call on most all of them, but there's only a few that I know of. Mrs. Cutrer in Caddo Parish is one, Mr. Mitchell is one, Mr. Smith is—Jody Smith is one.

Q. How about the joint legislative committee on segregation, have they visited the registrars?

A. I don't know.

Q. Are you familiar with what records were in your office prior to the time you took office or at the time you took office?

A. Well, am I—am I familiar with the records that—prior—

Q. With what records were there at the time you took [fol. 807] office?

A. I haven't gone through all of them. I'm familiar with some that I had to go back and refer to about different cases, particularly opinions that we got from the Attorney

General's office concerning registration laws. I refer to them from time to time again, which we keep on file.

Q. Are the records that are kept there kept permanently?

A. Yes.

Q. You don't destroy them at any time periodically?

A. While I've been in office we haven't. Now, I can't anwer for past directors.

Q. Yes, sir.

By Mr. Doar:

Q. Mr. Cutrer, with respect to this resolution that your counsel handed to me, do you have any personal knowledge of how this was prepared?

A. I do not.

Q. Do you have any knowledge at all as to how it was prepared?

A. No.

Q. Or as to who prepared it?

A. I don't know who prepared it. I have no knowledge at all about it. I was not present when it was prepared. The only thing I was sent a copy of it through the mail.

Q. And at the time that you were sent a copy through [fol. 808] the mail you were the director and ex-officio secretary of the Board of Registration?

A. That's right.

Q. Now, have you issued or promulgated any other rules or regulations as to the method of the administration of the Board of Registration laws which you have circulated to the registrars throughout the State?

A. The only thing that I've printed is—sent to the registrars is the letter that we sent out on January 16. That's the only one I've printed.

Q. Did your predecessors in office send out any rules and—

A. I can't answer that. I don't know.

Q. —rules and regulations? Now, did you at any time send out any forms to be used in connection with the constitutional interpretation tests?

A. No, sir.

Q. Did you ever yourself prepare any forms to be used in connection with the constitutional interpretation tests?

A. No, sir.

Q. Do you receive any information in writing—any periodic information in writing from the various registrars throughout the State as to which ones are using the constitutional interpretation tests?

[fol. 809] A. No.

Q. Do you keep any record of—do you keep any periodic record as to which registrars are using the constitutional interpretation tests?

A. No.

Q. Do you keep any record as to how those registrars who use the constitutional interpretation tests are using them?

A. I keep no records, no. I'm familiar with how some of them use it.

Q. Could you just briefly indicate the various ways in which registrars that you are familiar with use the constitutional interpretation tests?

A. Yes. They have the constitution book that they get from the Secretary of State's office that they refer to about different questions. They use—some of them use books from the Superintendent of Education's office equivalent to 9th grade or 8th grade civics in school. And some of them even have ordered from other concerns simplified questions about the constitution—about the constitution of the State and as well as the United States Constitution.

Q. Could you be a little more specific about that—let's take the ones that—you say some of them use the regular constitution purchased from the—some agency of the state?

[fol. 810] A. Yes.

Q. And do you know how the registrars that use that pamphlet administer the tests?

A. They look up a question pertaining to the state constitution or the federal constitution and ask them a question from the book, and they interpret it themselves.

Q. Well, do they ask a question from the book, or do they show them a section of the constitution and ask them to interpret it?

A. They ask them a question.

Mr. Kron: I object to this on the ground that insofar as Mr. Cutrer is concerned it's purely hearsay.

Mr. Doar: Well, he hasn't said that, Mr. Kron.

Mr. Kron: His knowledge comes only as a result of his conferences with the registrars, and there has been no foundation laid, up to this point, at any rate, that he has been present when any of these tests were made. Therefore, he doesn't know—as presently indicated, doesn't know of his own knowledge how these tests are made or [fol. 811] given.

By Mr. Doar:

Q. Well, you say that these—they don't ask the applicant to interpret a section of the constitution, they just ask him a question about the section?

A. Yes, they ask them questions about the constitution, and I would presume in some cases—as to my own knowledge, I do not personally know—that they may ask them to read a portion of the constitution and interpret it. We're endeavoring to bring about some simple tests that we can get all the registrars to adopt and use.

Q. But you haven't been able to accomplish that purpose as yet?

A. No, sir.

Q. And I'm asking you what procedures you have found to presently exist in Louisiana with respect to the administering of these tests. And you've indicated that one procedure you've found was that registrars would ask applicants questions about certain sections of the constitution, is that correct?

A. That's correct.

Q. And do you know where that procedure exists specifically?

A. Only by what the registrar tells me. I've discussed it with them in trying to work out some simplified procedure [fol. 812] for all of them to follow. Mr. Mitchell asks them the questions from Caddo Parish.

(Off the record discussion.)

By Mr. Kron:

Q. Were you ever present when this interpretation test was given in any of the registrars' offices in the state?

A. No, sir.

Mr. Kron: I then submit that the testimony is objectionable on the basis it's pure hearsay.

By Mr. Doar:

Q. The question is where was this procedure used?

A. Mr. Mitchell's office in Caddo Parish.

Q. Now, another procedure that you indicated was used was the use of a simplified constitution in certain parishes. Now, where is that used?

A. In Lincoln Parish.

Q. And in that particular parish is the applicant required to write and interpret one of those sections or is this an oral test?

A. He is required to write.

Q. Write a section—

A. Read and write.

Q. And interpret—

A. Read it and then write it.

[fol. 813] Q. And interpret it?

A. And interpret it.

Q. Well, going back to Mr. Mitchell's parish, is that a written test or an oral test?

A. I don't know about that.

Q. Now, what other methods of administering the constitutional interpretation tests have you come across?

A. That's all.

Q. Just those two methods?

A. Yes.

Q. Are you familiar with the card system—the 24 cards?

A. Yes, I've seen them.

Q. Do you know whether they are used in any parish?

A. No, I don't.

Q. Do you know whether or not the—do you know specifically how the registrars in the other parishes that you enumerated as having been parishes where the registrars utilize the constitutional interpretation tests—do you know what methods they use?

A. None other than what I've just explained to you.

Q. One was oral questions about the constitution and the other was a simplified constitution where the applicant is required to read it and write it and interpret it?

[fol. 814] A. That's correct.

Q. Did you indicate, to your knowledge, this interpretation was oral or written?

A. Lincoln Parish is the only parish I know of where it is written that I can—now, that's still—I have not seen the tests given. I have only talked to the registrar about how those tests are given in his office.

Q. Do you know what the practice is, for example, in Claiborne Parish?

A. No, I don't.

Q. Do you know that the test is used there, though?

A. Yes.

Q. Do you know what the practice is in East Feliciana Parish?

A. No.

Q. Do you know that the test is used there?

A. I can't say that I do know that it's used in East Feliciana.

Q. Do you know—I think you did testify that the tests are used in Washington Parish?

A. That's right.

Q. And do you know how the registrar used the test there?

A. No, I don't.

Q. Washington Parish is your home parish, is it not?

[fol. 815] A. Yes, it is.

Q. Now, has this resolution of the State Board of Registration of the State of Louisiana, which you have handed me this morning been revoked or amended or altered by the State Board?

A. To my knowledge it hasn't been. I know of no revoking or amending of it, personally.

Mr. Doar: Can we mark this as an exhibit, or can we just obtain a certified copy of it and—

Mr. Kron: Well—

Mr. Doar: —then have it marked? I don't know—

Mr. Kron: You can get another copy. Why don't we just let him use this one—use it as the exhibit?

Mr. Doar: Would you mark that as Exhibit-1? That should probably be stapled together.

By Mr. Doar:

Q. This exhibit-1 which you've handed me—consisting of a resolution of two pages, dated the 10th of October, together with certain attached instructions and forms, consisting of two pages of instructions and two pages of forms, [fol. 816] is the resolution to which we have been referring during the course of this deposition. Is that a fair statement?

A. Is that the resolution?

Q. Yes, that's the resolution of which we've been talking during—

A. Yes.

Q. I'm just doing this for the record—

A. Yes, yes, that's the resolution.

Q. Thank you, Mr. Cutrer, very much for coming up here this morning.

A. Certainly.

Witness excused at 12:08 P. M.

[fol. 817]

PLAINTIFF'S EXHIBIT No. 22B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of Douglas Fowler, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the offices of Janet L. Parker & Associates, 1211 Louisiana National Bank Building, Baton Rouge, Louisiana, on the 10th day of March, 1962, commencing at 10:05 A.M.

* * * * * * *

[fol. 818] The witness, DOUGLAS FOWLER, after having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name, please.
A. Douglas Fowler.
Q. What's your address, Mr. Fowler?
A. Capitol Station, Baton Rouge, is my business address, and my home address is Post Office Box 401, Coushatta, Louisiana.
Q. Do you reside in Coushatta, or here?
A. Yes, sir, I reside in Coushatta and then I have an apartment here in Baton Rouge that I live in from Monday until Friday, and I return home over the weekend.
Q. Do you hold an official position with the state?
A. Yes, sir.
Q. What position is that?

---

A. I am the State Custodian of voting machines.

Q. Is that an elective office or an appointive office?

A. Yes, sir, it is an elective office.

Q. How long have you been the State Custodian of voting machines?

A. I have been State Custodian of voting machines since May 1 of 1959. My first service as State Custodian of voting machines was by an appointive board—a board made the appointment and then I was elected to serve the next [fol. 819] four year term and took my oath of office in May of 1960.

Q. Did you hold any state offices prior to that time?

A. Yes, sir.

Q. What offices were they?

A. I was the Director of the State Board of Registration.

Q. What was your term of office there?

A. I served as Director of the State Board of Registration from some time in the early part of May of 1956 until May the 1st of 1959.

Q. Did you hold any office before that—what did you do before you were Director—let's put it that way.

A. Well, prior to that time, I was Clerk of the Tenth Judicial District Court for twelve years, that is, 1940 to 1952, and then I was Mayor of the town of Coushatta from '52 through '56.

Q. Is that court in Coushatta?

A. Yes, sir, that is a District Court in Coushatta.

Q. Now, as Custodian of voting machines, do you have any records of registration in Louisiana—do you maintain any record of the number of registered voters?

A. I get a report each month from the Board of Registration.

Q. You don't have any independent source of information on that then?

A. No, sir.

Q. It comes from the State Board and it would be the [fol. 820] same records that the State Board has?

A. Yes.

Q. Do you know how long the—there has been a Director—how long that office has been in existence, Director of State Board of Registration?

A. No, sir, I don't. As well as I remember in the early 50's.

Q. Who was Director before you?

A. Mr. David Reynaud of Lutcher, was the Director ahead of me.

Q. He's from Lutcher, did you say?

A. Yes, sir.

Q. And do you know who was Director before him?

A. Mr. Bobby Dugas from Donaldsonville.

Q. And how about after you—who was Director then?

A. Mr. Edgar Coco.

Q. Whereabouts is he from?

A. He is from Marksville.

Q. Was there anybody else after him and prior to the present Director?

A. No, sir. After Mr. Coco, then we have Mr. Hugh Cutrer.

Q. When you were—when you were Director of the State Board, how large a staff did you have at that time?

A. I had myself and a secretary, Mrs. Harris, for quite some time—I don't remember exactly how many months, and then after that I employed Mrs. Kuykendall as clerk—[fol. 821] typist clerk there in the office.

Q. But you had no professional assistance?

A. No, sir.

Q. Do you know offhand whether Mr. Coco ever had any?

A. No, sir, I don't.

Q. Could you describe generally what—what the duties are of the Director of State Board of Registration—what they were when you were Director?

A. I—the duties of the State Board of Re—the Director of the State Board of Registration is to make periodic visits to the various Registrars in the state to work with the Registrar, as well as the governing body of the parish and to carry out the directives of the Board of Registration, I would say. You are familiar with the way the way the set-up is about the Board?

Q. Well, yes. The Board is composed of the Governor, and the Lieutenant Governor, and Speaker of the House.

A. Yes, sir.

Q. Do they ever have meetings, or have they ever had meetings, do you know?

A. Yes, I know that they have had meetings, but I have never attended one of their meetings.

Q. The Director, as I understand it, is the Secretary Ex-Officio of the Board.

A. Yes, sir.

Q. Then, would the Director's office have minutes of Board meetings, or anything like that?

[fol. 822] A. No, sir.

Q. Do you know whether or not there ever were any minutes of a Board meeting?

A. Yes, sir, there were minutes of Board meeting at the time that I was Director when the Board of Registration had a meeting—held a meeting and passed a resolution for the removal of some Registrar, or the appointment of some Registrar. I received a copy of that resolution for the purpose of mailing that copy to the Registrar to notify them.

Q. I see. Where would—where would the Board's copy of that resolution be?

A. The Board's copy would be kept in the Governor's office, or in the Board's office there.

Q. Do you know if they ever had any other types of resolutions in hiring and firing Registrars?

A. No, sir, I don't.

Q. The statute provides that the Board can promulgate rules and regulations. Did they ever do that when you were Director?

A. No, sir. I don't recall them ever having a meeting to formulate the rules and regulations, or to make any changes or anything like that—I don't recall it at the time—in fact, I know that they didn't.

Q. Do you recall whether there was any file in the office when you were Director that contained rules and regulations of the Board?

[fol. 823] A. In the—in the Director's office?

Q. Yes.

A. We kept files on forms that had been—that were used in the process of registration of voters in the office—we kept that, and kept, of course, copies of the reports and

things, but I don't—I don't—I don't recall that we ever kept any—ever had any other forms like that to—

Q. When a new Registrar is appointed, does the Board send him any materials, handbook, or copy of the statutes, or anything like that—

A. At the time—excuse me, sir.

Q. —excuse me—instructions as to his duties or anything along those lines?

A. At the time I was serving as Director, when a new Registrar was appointed, we would send to them copies of our registration laws that the Secretary of State puts in one small volume, and also would be sure that they had a copy of all the forms that were used in the whole entire process of registration.

Q. Does the Board maintain any files on the Registrars containing personal data, such as their names, addresses, education?

A. The only record that I kept in the office was a record of the name, address and telephone number of each Registrar.

Q. When you were Director, did you meet personally with [fol. 824] all of the Registrars at one time or another?

A. At one—I visited each Registrar in each respective parish—

Q. I see.

A. —and then when we would have the annual state convention, I would meet those Registrars that were present at that convention.

Q. There is such a convention going on now in New Orleans?

A. Yes, sir.

Q. I understand you've just been there.

A. Yes, sir.

Q. Do you attend those conventions every year when they have them?

A. Yes, sir, I have attended all of those conventions since 1957.

Q. And at that time, could you say then, from your own personal knowledge that all Registrars are white—of the white race?

A. Yes, sir, all Registrars are of the white race.

Q. I see. Now, I understand that the Registrars each submit a monthly report to the Board with a list of the new registrants, a list of scratch from the rolls, a list of transfers and monthly statistical totals broken down by race and party. Did they do that when you were Director?

A. Yes, sir.

Q. Are those reports kept by the Board?

[fol. 825] A. Those reports were kept in the office—in the Director's office.

Q. You never discarded them when you were Director?

A. No, sir.

Q. How long have they been submitting those reports?

A. I am not positive, sir, about the time, but I—I believe that—that we started that work in the latter days of '56 or early part of '57.

Q. Was that started while you were Director?

A. Yes, sir, that was while I was Director.

Q. Then the Board puts out a statistical table by parish, by race, by party, of the number of registered voters. I understand they turn it out every month. Did they do that when you were Director?

A. Yes, sir, we started that work when I was Director.

Q. That wasn't done before the time you were Director?

A. No, sir.

Q. You said that you visited Registrars from time to time. Did you ever observe registration procedures?

A. No, sir, I didn't.

Q. Did you talk to the Registrars about the procedures?

A. Yes, I talked—I talked to the Registrars in my visits with them, yes.

Q. Do you have any idea about how many, at that time, were using the interpretation tests?

A. No, sir, I don't. I don't—at the beginning of my term I don't—I just don't remember. I don't know of any and [fol. 826] then I don't know how many were attempting it.

Q. Do you recall any parishes, specifically—do you remember any parishes, specifically, that were using it?

A. No, sir, I—I—there were parishes that were using it—

Q. I see.

A. —but I—I did not—at the time that I was present, I'm —they never did attempt to use it or try to register anybody. There was—there were those—some Registrars that were attempting to use it at that time.

Q. Do the Registrars, from time to time, inquire of the Director what procedures they should use—bring problems that they have in connection with qualifying applicants to the Director?

A. Yes, sir, they do.

Q. How are those inquiries answered—how are they made, first I should say?

A. Well, they are made by telephone calls, oral requests, sometimes in writing, and they are answered by—sometime by oral methods, sometime by just over the telephone, and sometime by—in writing.

Q. Would copies of the answers in writing be in the files of the State Board?

A. Yes, sir.

Q. Do the State Board maintain any file on the legislative [fol. 827] history—on the background of statutes dealing with registration?

A. I don't—I don't understand your question, sir.

Q. Well, does the State Board, from time to time, recommend changes in the registration law to the legislature?

A. Oh, yes, sir. Well, I—I wouldn't say that it was the State Board, but from time to time there is changes in the registration laws in our state.

Q. Is the Director of the State Board normally consulted about those changes?

A. No, sir, I—I'd say that he wasn't consulted.

Q. While you were Director, did you ever attend any meetings at which proposed legislation was discussed?

A. I don't believe that I ever attended a meeting where proposed legislation was discussed.

Q. Now, back in—I guess it was '58 and 59—the Joint Legislative Committee on segregation and the State Board had meetings with Registrars in various parts of the state. Now, did you attend these meetings?

A. Yes, sir.

Q. Did you attend all of them?

A. Yes, sir.

Q. Under whose auspices were these meetings held?

A. They were held under the notification of the Joint Legislative Committee, and we would generally get a letter from the chairman of the committee notifying us of the time and place of the meeting and requesting our presence there. [fol. 828] Q. Was the State Board the co-sponsor of the meeting?

A. No, sir.

Q. Who were at these meetings?

A. Well, they were held by congressional districts and the Registrar of Voters from each respective parish, and possibly their Deputy was there, I was there, and my secretary was there, members of the legislative—Joint Legislative Committee, the counsel for the Joint Legislative Committee, and then there would be—how many, I don't know—other public officials, the Sheriff and the District Attorney and Judges and others like that, but I don't know how many would be present.

Q. How were these people who were there notified that there was to be a meeting?

A. I don't know, sir.

Q. Did the State Board send letters out to the Registrars telling them about the meeting?

A. As well as I remember, at that time I was requested to get out those letters to these individuals notifying them of the time and place of the meeting, and that's the—that's to the best of my knowledge at this time.

Q. How about to the District Attorneys and the Sheriffs and other people who were there, did you send out letters to them, too?

A. I don't remember, sir. I sent out letters to—I was—as well as I remember, would be given a list and say, "notify [fol. 829] this many people here."

Q. Were—

A. I would—sir?

Q. Were copies of the letters that you sent out maintained in the file of the State Board?

A. Yes, sir, copies were.

Q. How about the list you were given, was that kept in the files of the State Board?

A. I don't remember, sir.

Q. Were there minutes taken at these meetings?

A. Yes, sir.

Q. And to whom were the minutes sent to—to whom were they distributed?

A. Well, the Legislative Committee had their own secretary that took the minutes.

Q. What's her name, do you know?

A. Her name was a Mrs. Mims, as well as I remember.

Q. Where does she live?

A. She lives at Homer, I believe—H-O-M-E-R—Homer, Louisiana and she would take the minutes—take a record of the meeting and they would write up minutes and mail those out to—I don't know—I presume that all that registered that were present, I am presuming that, would get a copy of the minutes.

Q. Did the State Board of Registration get copies?

A. Yes, sir, my office did get a copy.

Q. And did you keep those in the files of the State Board?

[fol. 830] A. Yes, sir.

Q. Were there any materials distributed to the Registrars at these meetings?

A. Yes, sir. They would distribute instructions and, as well as I remember, there was a little bitty booklet, maybe that was printed by the Joint Legislative Committee, that they would distribute at these meetings.

Q. Is that the booklet called "The Key to Victory in the Segregation Struggle"?

A. I don't remember the name of it, sir.

Q. Would you recognize it if I showed you a copy of it?

A. I would.

Mr. Dunbaugh: Mr. Kron, I'm going to show the witness Appendix A to the complaint—

Mr. Kron: Yes.

Mr. Dunbaugh: —in the case of United States versus Louisiana, et al.

Mr. Kron: All right. You had better identify it by the action number because there are other cases under that similar title.

Mr. Dunbaugh: Yes.

Mr. Kron: Civil Action Number 2548.

[fol. 831] Mr. Dunbaugh: Thank you.

A. Yes, as well as I recall, that was distributed to all present.

By Mr. Dunbaugh:

Q. Was there anything else distributed?

A. I don't remember, sir.

Q. How about constitutional test cards?

A. Yes, sir, constitutional test cards were distributed.

Q. I'll show you Appendix B to the complaint—there's about six or seven pages.

A. Yes, sir, those cards were distributed at the meeting.

Q. Do you recall if anything else was distributed at that time?

A. No, sir, I don't recall. There could have been, or there could not have been—I don't recall.

Q. When you received the copies of the minutes that were distributed and sent to the State Board, did you read them over?

A. These district meetings?

Q. Yes.

A. Yes, sir, when—I—I would read the minutes.

Q. Did they fairly accurately represent what took place at the meeting?

A. They were fairly accurate.

Q. Had you ever seen those test cards prior to those meetings?

A. I don't remember, sir.

[fol. 832] Q. Do you know who thought up those test cards—who composed them?

A. The first—as well as I remember, the first test cards that I remember being put out was a card with a resolution on the back of the card that was passed by the Police Jury in Plaquemines Parish.

Q. You say it had a resolution on the back?

A. Yes, sir.

Q. Was it a test on the front?

A. A test on the front and a resolution on the back.

Q. Was it the same sort of card that they distributed at the meeting?

A. Yes, sir.

Q. Were the same type of questions on it—the same sort of provisions, I should say, they don't have questions.

A. I would say, yes, sir.

Q. After those meetings, did the Joint Legislative Council follow those up in any way—did they send out letters to the Registrars?

A. I don't remember, sir.

Q. You don't recall whether any of the Registrars ever showed you a letter or—

A. No, sir, I—

Q. —asked you about—

A. No, sir, I don't. I do recall that there was some attempt made to follow up on these meetings.

Q. What sort of an attempt was that?

[fol. 833] A. By the Joint Legislative Committee, but it would principally be to place into force and effect 100% enforcement of the registration laws of the State of Louisiana.

Q. Did the members of the committee go out and visit Registrars. Did any Registrars ever tell you that?

A. I had reports from Registrars that members of the committee had visited some offices and I—I—and—but it was strictly a Registrar telling me that Mr. So and So was by here.

Q. Do you recall which Registrars, offhand?

A. No, sir, I do not.

Q. Well, what members of the committee?

A. It was Senator Rainach, I believe was the only one that I heard mentioned at that time.

Q. You don't recall what parish?

A. No, sir, I don't.

Q. Other than the ones that I have mentioned, can you think of any other records that are kept by the office of the State Board of Registration?

A. There are other records—statistical records to—of potential registration was kept.

Q. Are they in the form of a report made to somebody—something like that?

A. Yes, sir, those—they are in the form of a report that's for the use in the office there.

Q. That's about all I can think of Mr. Fowler.

[fol. 834] Mr. Dunbaugh: Mr. Kron?
Mr. Kron: No questions.

Witness excused 10:40 A. M.

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[fol. 835]

PLAINTIFF'S EXHIBIT No. 22E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of William M. Rainach, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the Post Office Building, Homer, Louisiana, on the 9th day of October, 1962, commencing at 9:50 A.M.

APPEARANCES:

Frank M. Dunbaugh, Esq., Attorney, Department of Justice, Washington, D.C., for Plaintiff.

Harry Kron, Esq., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, for Defendants.

A. B. Atkins, Jr., Esq., North Main Street, Homer, Louisiana, for William M. Rainach, Witness.

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[fol. 836] The witness, WILLIAM M. RAINACH, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. Will you state your name, please, sir?
A. W. M. Rainach.

Q. What is your address, Mr. Rainach?

A. My residential address is Summerfield, Louisiana, and my business address is Homer, Louisiana.

Q. Where were you born?

A. Kentwood, Louisiana.

Q. How long have you lived here?

A. Oh, I'm 49 years old, and I've lived here since approximately the age of 4.

Q. Were you at one time the senator from this district?

A. Yes, sir.

Q. What district is this?

A. The 27th Senatorial District.

Q. How long did you serve in the Louisiana legislature?

A. 20 years.

Q. While you served in the legislature were you chairman of the Joint Legislative Committee on Segregation?

A. Well, it's been referred to as that. It had no such official name.

Q. What was the name of it, sir?

A. The Joint Legislative Committee.

Q. Do you recall when that committee was formed?

[fol. 837] A. As I recall it was in 1954.

Q. How long did you serve as its chairman?

A. Until I went out of the Senate in 1960.

Q. From the time the committee was formed?

A. Yes, sir.

Q. Is it true that you were an incorporator of the Association of Citizens Councils of Louisiana?

A. I can't recall that specific detail. I was one of the organizers of the Association of Citizens Councils of Louisiana.

Q. When was that organized?

A. So much has happened I can't recall all of the details, but I think it was 1945.

Q. Have you ever served as President of the Association?

A. Yes, sir.

Q. During what period were you President?

A. Well, as I recall I was President from the beginning until either the latter part of 1958 or early 1959 when I resigned and Mr. John S. Garrett became President.

Q. Have you held any other offices in the Association?

A. No other office.

Q. Were you a member of the Board of Directors?

A. Yes, sir, I think membership on the Board is distinct from being an officer.

Q. What did the Association do, what was the—

A. Well, the Association was set up for the purpose of preserving constitutional government in the United States, [fol. 838] and for preserving the national sovereignty of this country, for preserving the traditions and institutions of the states of the South, for preserving the liberty of the individual, and for preserving the identity of the races.

Q. You spoke of the traditions and institutions of the states of the South. Could you expand on that a little?

A. Well, that would include the friendly relations that have been maintained between the races of the South for the past 50 or 60 years—which largely stem from our social policy of separation of the races.

Q. In other words, that would include segregation in schools and segregation in other public facilities?

A. Yes, sir, I think that is a perfectly legal constitutional objective as well as a social one.

Q. Did the Association also undertake to help to organize local councils?

A. Yes, sir.

Q. Were you active in this—

A. Yes, sir.

Q. In what parishes did you help to organize local Citizens Councils?

A. I couldn't recall at the moment. I don't know whether I could give you a precise answer, but it was in a number of parishes.

Q. I take it that you helped to organize Citizens Councils [fol. 839] here in Claiborne Parish?

A. Yes, sir, certainly.

Q. How about Arcadia?

A. Yes, sir, and several Citizens Councils in Bienville Parish, where Arcadia is the parish seat.

Q. Did you also help to organize councils in Union Parish?

A. Yes, sir.

Q. In Grant Parish?

A. I don't recall whether I helped to organize one in Grant or not. They were formed in Grant.

Q. How about in LaSalle Parish?

A. I don't believe I ever talked or visited LaSalle Parish. I don't recall.

Q. Winn Parish?

A. Yes, I spoke at Winn Parish, yes, sir.

Q. De Soto Parish?

A. De Soto Parish, yes, sir.

Q. During 1956 a number of the councils of which you've just spoken about undertook to examine the registration records in those parishes. Did you participate in any of that?

A. I can't recall the particular year, but I undertook very little personal examination of records.

Q. Did you speak to Citizens Councils groups urging them to examine voter registration records?

A. Yes, I have.

Q. What did you tell them?

[fol. 840] A. Well, I told them that there were many unqualified people on the rolls of the Registrars of Voters' records, and government in the United States could be no better than the general level of the qualification of the electorate. We should remove unqualified voters from the rolls and uniformly enforce the voter qualification laws of this state, and the result would be a general raising of the level of the electorate, which should bring about the further result of a more sensible and better government for this country—for this state and this country.

Q. I take it then that you urged these councils to do what they could to remove persons from the voter rolls?

A. Yes, sir, I advised not only councils, but as—but the public in general—I think that we should enforce our voter qualification laws and remove unqualified people from the rolls.

Q. Did you also urge to them that they do everything that they could to see that the voter registration laws were strictly enforced?

A. Yes, sir.

Q. Did that include the use of the constitutional interpretation tests?

A. Yes, sir. May I add at this point that, without having the Constitution before me, it is my recollection that the Constitution of the State of Louisiana requires that this [fol. 841] test be applied. It is not optional.

Q. Did you feel that these activities would help to further the aims that you expressed before about maintaining segregation of races?

A. I think that if these activities that I have advocated were applied uniformly in this state and in the rest of the United States we would not only preserve separation of the races, but we would preserve a lot of our other American institutions that are being lost as well.

Q. How would that program of cleaning up the voter rolls and applying the interpretation tests accomplish that?

A. That would go back to my original statement that we would have a better qualified and more intelligent, and to some extent a better educated electorate in the country, and the electorate would be capable of exercising much better judgment than has been shown as exercised in the past by the electorate in this country, particularly the past 20 or 30 years.

Q. Did you feel that this program would officially reduce the number of Negro voters in this state?

A. Yes, sir, and to some extent whites.

Q. But to a greater extent the Negroes?

A. Numerically it probably would have removed more whites than Negroes.

Q. I believe at one time you were quoted in the press as saying that the program would remove about 117,000 Ne- [fol. 842] groes from the voter registration rolls, is that accurate?

A. I don't recall how many there were registered at the time. I don't know precisely how many are registered today, but I imagine it would have removed 100,000, and it probably would have removed—if my advice had been carried out, it would probably have removed more than that many whites, and it's more—it's more beneficial and lasting effect would be the prevention of the registration of unqualified voters in the future.

Q. In connection with these activities involving voter registration did the Association of Citizens Councils of Louisiana distribute literature to the local Citizens Councils?

A. Yes, sir, we distributed—we did distribute literature of various kinds on various occasions.

Q. Among those things was there a pamphlet entitled "Voter Qualification Laws In Louisiana," sub-title "The Key To Victory In The Segregation Struggle"?

A. Do you have a photocopy of the exhibit?

Q. I show you a copy of Appendix A to the complaint in this case and ask you to examine it.

A. I have examined it.

Q. Is that a pamphlet that was distributed by the Association?

A. Yes, sir, it appears to be.

[fol. 843] Q. Did you distribute that to local Citizens Councils?

A. It was widely distributed. Of course, I didn't handle the details myself. I would assume that it was distributed to all of the local Citizens Councils.

Q. Was it also distributed to Registrars of Voters?

A. I can't answer you categorically. It probably was.

Q. Do you remember ever giving a copy to a Registrar?

A. Personally giving a copy?

Q. Yes, sir.

A. No, sir, I don't recall personally giving a copy, although I probably did.

Q. Was it also distributed to other public officials, sheriffs and people of that nature, Police Jurors and—

A. As I recall it was distributed all over the South, possibly to other states in the Union.

Q. During 1958 and 1959 did the Joint Legislative Committee hold meetings in conjunction with the State Board of Registration?

A. I can't recall the precise dates or years, but the Joint Legislative Committee did hold meetings with the—I don't know—we called them Congressional District meetings, I believe, with the Registrars of Voters in the state, and with local officials in conjunction with the State Board of Registration.

Q. Were local officials, Registrars of Voters and Citizens Councils members from all of the parishes in the state invited to these meetings?

[fol. 844] A. There was an open invitation to the public and the—I don't recall whether or not the local officials were extended specific invitations.

Q. What was discussed at those meetings?

A. Uniform enforcement of the voter registration laws of the State of Louisiana.

Q. Were copies of this pamphlet distributed at those meetings?

A. You are asking me about detail at the meeting—at each meeting. That was a very long time ago. I imagine they were, but I couldn't tell you precisely.

Q. Do you recall if the booklet was discussed?

A. I couldn't recall whether or not it was discussed at each meeting, no, sir. I think a man who hasn't been doing very much could remember everything he had done.

Q. Now, I would like to direct your attention to Appendix B to the complaint—

A. Yes, sir.

Q. —which consists of, I believe, 12 pages. Do you recognize what those are?

A. Yes. Those are photocopies of constitutional tests for voter registration.

Q. Have you ever seen any of those copies?

A. Yes, sir.

Q. Where did you see them?

A. Well, I believe I first saw them in—oh, I—in Baton Rouge or New Orleans. As I recall they were first used in [fol. 845] Plaquemines Parish, Louisiana, and as I also recall they have been at one time held constitutional by the Courts—the Federal Courts in connection with a voter registration suit against the Parish of Plaquemines in Louisiana.

Q. Did you or the Joint Legislative Committee or the Association print up cards like that?

A. I can't recall how they were printed—whether we printed them or whether they were furnished us by someone else—but we had them.

Q. What did you do with them?

A. As I recall, at each one of the meetings sets of the cards were given to each of the Registrars at the meetings, and they were—the Registrars were advised that this was the one constitutional test that had been upheld legally in the Federal Courts, that the Constitution of Louisiana did not require a Registrar of Voters to use this set of cards, but in case the Registrar of Voters wanted to use the cards they could be used validly under our laws as well as under the laws of the United States.

Q. Did you want the Registrars to use those cards?

A. Well, we thought that was a much more systematic method, provided more uniformity than a method of random application of constitutional interpretation tests taken from the text of the Constitution itself, where you just open up—reach for the Constitution and open the book, [fol. 846] and where the page happened to fall open, that you asked a person to interpret from that particular page.

Q. Did you urge the Registrars then to use these cards?

A. I believe I stated that in my previous statement.

Q. Your answer is yes?

A. Yes, sir. Of course, we didn't insist on it.

Q. At the meetings that you are referring to—were these handed out in the Congressional District Meetings which you mentioned before?

A. Yes, sir, as I recall it.

Q. Did the Joint Legislative Committee urge these voter purges that we discussed before?

A. Well, I can't recall whether or not we specifically urged any voter purge. Of course, we did urge the uniform enforcement of our voter registration laws, and that would include removing unqualified voters from the rolls and the prevention of registration of future unqualified voters.

Q. I believe you said that the purge—the purpose for this strict enforcement, including the purges and the strict enforcement of the interpretation tests, was to preserve the southern traditions and institutions of which you spoke about?

A. I stated that was one of the several objectives of the tests.

(Off-the-record discussion.)

[fol. 847] By Mr. Dunbaugh:

Q. I believe that at these Congressional District Meetings that you produced some statistics on registration in the State of Louisiana?

Mr. Kron: May I interrupt at this point; I think it would be best to dispose of it here once and for all. Will you permit me to ask one question to resolve with definiteness your attempt to get the purpose of the movement of the council? I think we could then get off of that and go on to the other matters. Will you permit that?

Mr. Dunbaugh: Well, I'm off of it, and going on something else now.

Mr. Kron: Well, that's why I thought this would be the appropriate place to have it in the record, rather than come back at some later time.

Mr. Dunbaugh: Go ahead.

A. (The witness did not reply.)

By Mr. Kron:

Q. Mr. Rainach, I show you again Appendix A, attached to this complaint, entitled "Voter Qualification Laws In Louisiana," "A Manual of Procedure, et cetera, et cetera," which you have previously inspected and identified, and [fol. 848] ask you to read therefrom from Page A-5, the concluding paragraph thereof. Would you read this into the record, please?

A. This is not the entirety of the concluding paragraph, but it states in essence the purpose of the pamphlet: "In proceeding to clear the rolls of illegally registered voters and in establishing a systematic procedure for registration in your parish, you must be exceedingly careful to observe the legal rights of all of the citizens of the parish. The whole purpose of our registration laws is to prevent the registration of ignorant, 'bloc' voters who would become the tools and pawns of scheming adventurers."

By Mr. Dunbaugh:

Q. What do you mean by "bloc" vote?

A. Well, the word "bloc" means any—of course, means any group who would vote—any large group of voters who would cast their ballots for the same purpose. It's usually referred to as such a group that casts their votes in such manner that the effects would not be for the good of the government affected thereby.

By Mr. Kron:

Q. Mr. Rainach, the concluding sentence of this pamphlet says as follows: "Discrimination between applicants or registrants cannot be tolerated. The future of our state, our family, and future generations will depend to a great extent on how these registration laws are enforced." Do [fol. 849] you subscribe to that statement, sir?

A. Yes, sir.

Q. Is that what you attempted to convey to Mr. Dunbaugh in answer to Mr. Dunbaugh's questions as the underlying purpose of your movement and your activities in this regard?

A. May I quote at this point, "I am not, nor ever have been, in favor of making voters or jurors of the Negroes, nor of qualifying them to hold office, nor to intermarry with white people." Those are not my words. They are the words of Abraham Lincoln, and they were spoken at Columbus, Ohio, in the year 1859. In all my official actions, though, I have carefully advised that our voter qualification laws be fairly and uniformly administered, and that any person who met the legal qualifications be registered to vote. I have done this despite Lincoln's further assertion in Springfield, Illinois, in 1857, that "I hold that a Negro is not and never ought to be a citizen of the United States."

By Mr. Dunbaugh:

Q. In the Congressional District Meetings you presented some statistics on voter registration here in Louisiana, going back to the 1880's, I believe, do you recall that?

A. Well, I recall the accumulation and the presentation of statistics. I don't have a copy of them with me. Do you [fol. 850] have a copy?

Q. What was the purpose in this statistical analysis—what were you trying to convey?

A. The purpose, of course, of the statistical analysis was to illustrate the—some aspects of the breakdown of the enforcement of our voter qualification laws.

Q. Is it true that you used these statistics to point out to the people at these meetings that by use of the voter qualification laws Louisiana in 1898 had straightened out its segregation problem, and that the same thing could be done today?

A. You are bringing out a detail that I can't categorically answer.

Q. Do you remember ever saying anything to that effect?

A. I may have. I don't recall.

Q. In connection with that, Mr. Rainach, you were quoted as follows, and I would like for you to tell me whether or not this appears to be correct to you: "This battle is for our whole way of life and all our domestic institutions. Every bit of information coming from the opposition, however, indicated that it is primarily a fight for the illegally registered Negro vote. We used the word qualification laws before in 1898 to clean up our registration laws when we faced the same problems, and we are here today laying plans to use it again for the same purpose."

[fol. 851] A. I can't recall ever saying that specifically, but I imagine that would be a correct statement of fact.

Q. You were served with a subpoena duces tecum, and your counsel has explained to me that you do not have all of these documents. I wish you would please explain into the record where these documents are and why you don't have them.

(Short recess.)

A. At this point I would like to ask that the record be changed to make a correction of the date given by me earlier in the testimony. I believe that I was asked when the Association of Citizens Councils of Louisiana, Incorporated, was formed, and it has been called to my attention

that I said the year 1945, which would be ten years in error. The correct date, as near as I can recall at the moment, would be 1955.

(At this point the reporter repeated the above question for the witness.)

A. With reference to document 1, a copy of each issue of the Councilor Newsletter, published by the Association of Citizens Councils of Louisiana, I am not the official custodian of the records of the Citizens Councils of Louisiana since I resigned. I have not been since I resigned as President. All of the records of the Citizens Councils of Louisiana were kept in the office of the Citizens Councils, and some of my personal records may have been kept there. [fol. 852] The office was transferred to Baton Rouge over two years ago, I believe, and it since has been transferred to Shreveport. And I would assume that any records of the Citizens Councils would be in the Shreveport office.

By Mr. Dunbaugh:

Q. What address is that, and who is the custodian?

A. Well, Charles L. Barnett of Shreveport is President of the Association of Citizens Councils of Louisiana. Ned Touchstone of Bossier City is the secretary-treasurer of the Association of Citizens Councils. The latter party would normally be the custodian.

Q. With respect to the Councilor, were you the editor of the Councilor?

A. No, sir, Mrs. Frances P. Mims was the editor of the Councilor.

Q. But I believe that you wrote a column for it?

A. Well, you have more knowledge at the moment of it than I do, apparently. I can't recall writing any continuous column for it. She may have written one for me. Number 2, the minutes or copies thereof of each meeting held by the Association of Citizens Councils of Louisiana during the period, January 27, 1956, to the present time. My answer to number 1 would apply to number 2. Number 3, a copy of the articles of incorporation and the by-laws of the Association of Citizens Councils of Louisiana, the articles of incorporation are filed in the Claiborne Parish Court-

[fol. 853] house and the Secretary of State's office in Baton Rouge, and are a matter of public record. You can get them there. Insofar as I know, there are no by-laws that have ever been adopted. Article number 4, the minutes or copies thereof, and all drafts and notes thereof of each of the Congressional District Meetings held during the period December 1, 1958, through February 28, 1959, under the sponsorship of the Louisiana Joint Legislative Committee on Segregation and State Board of Registrars. I have made a diligent search of my records, and I have been unable to find any such minutes. The secretary of the committee was the official custodian of the records.

Q. Who was that?

A. Ford Stinson—Representative Ford Stinson. Now, beginning a number of years ago, in my public activity, I began accumulating massive files having to do with various public issues and correspondence relating to personal and public matters. I filed each of the items in connection with my whole file system alphabetically and by subject matter, closed out by dates insofar as possible. About two years ago, when my physical condition broke down due to accumulated fatigue, I began to be unable to keep up with my files. They became a jumble. About four months ago I placed someone in charge of reassorting all of my files by chronological date, and then instituting a cross-reference [fol. 854] card index, and that party started that reassortment enough to mix them up, and they are all mixed up now. It would take me 3 months of time to really find out what I have in my files. With reference to number 5, a copy of each edition of the pamphlet "The Key To Victory In the Segregation Struggle," published by the Association of Citizens Councils of Louisiana, you have that in the record, and as I recall only one edition was published. Number 6, copies of all correspondence between William M. Rainach and the Registrar of Voters of any Louisiana parish. I never had any single file covering any correspondence to Registrar of the Voters as such. A number of the Registrars are my personal friends. I may have and probably did communicate with them at sometime or another, but had I made such communication I couldn't find it now.

Certainly not in the reasonable time you gave me to appear here—the reasonable in quotes. I did make an effort to look, but I couldn't—it would be impossible to find. Now, if you have any particular correspondence I, of course, would be able to identify it.

Q. Now, in connection with the minutes of the Congressional District meetings, I take it those would be in the records of the Joint Legislative Committee?

A. If there are any such records, yes.

Q. Where are those records kept?

[fol. 855] A. Mr. Garrett has what records that have been kept since he became chairman, and I have among my personal files what—intermingled, what records I had when I was chairman.

Q. When you were chairman, was it a practice to keep records of the committee—minutes of the committee meetings in—

A. There are—

Q. —Baton Rouge, or did you keep them with you here?

A. Well, there never was a Baton Rouge office. I had what minutes were kept here.

Q. Did you read over all of the issues of the Councilor?

A. You mean the Councilor Newsletter?

Q. Yes, sir.

A. I don't think I read all of them before they were published. I read most of them before they were published.

Q. How about after they were published?

A. Oh, yes, sir.

Q. Did they pretty much express your views?

A. Well, some of them did, yes, sir.

Q. Before we were talking about the bloc vote. Isn't it true that in Louisiana ordinarily the term "bloc vote" means the Negro vote?

A. Not necessarily, no, sir. At a time before there were very many Negroes registered, we certainly had blocs of white voters who, in the opinion of many, didn't vote for [fol. 856] the best interests of the State of Louisiana. There are also blocs, such as the school teachers' vote, and the labor vote.

Mr. Dunbaugh: I have no further questions.

Witness excused at 10:50 A. M.

[fol. 857]

PLAINTIFF'S EXHIBIT No. 22F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

The deposition of WILLIAM M. SHAW, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the Post Office Building, Homer, Louisiana, on the 9th day of October, 1962, commencing at 11:54 A.M.

APPEARANCES:

Frank M. Dunbaugh, Esq., Attorney, Department of Justice, Washington, D.C., for Plaintiff.

Harry Kron, Esq., Attorney General's Office, State of Louisiana, Baton Rouge, Louisiana, for Defendants.

A. B. Atkins, Jr., Esq., North Main Street, Homer, Louisiana, for William M. Shaw, Witness.

William M. Shaw, Esq., 515 South Main Street, Homer, Louisiana, In Proper Person.

[fol. 858] The witness, WILLIAM M. SHAW, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name and address, please.
A. William Marshall Shaw, Homer, Louisiana.
Q. What is your occupation, Mr. Shaw?
A. I'm a lawyer.

**Q. Were you at one time the counsel for the Joint Legislative Committee?**

**A. I was.**

**Q. What were your functions at that time?**

**A. I was the general counsel for the Joint Legislative Committee from the time of its organization, which was in 1954 until the advent of the Davis administration, which was in 1960, as I recall. By Davis I mean Jimmy Davis, the present Governor of the state of Louisiana.**

Q. Are you a member of the Association of Citizens Councils?

A. Yes and no. Perhaps, I'll have to explain that.

Q. Go right ahead, Mr. Shaw.

A. The Citizens Councils organization —the first one was organized here at Homer in 1955. Now, I am speaking of the Citizens Councils in Louisiana, the only one in the state of Louisiana. I drew up the charter for that organization, was the first president of it, and I more or less helped to [fol. 859] a great extent in its organization and its operation. Sometime thereafter in 1956, I believe—well, later on in 1955 or '56 we went over the state—I say "we," a number of us, and I was one of them—organizing local councils at different towns and parishes over the state. Thereafter we organized—by "we" I mean a large group of people organized the Association of Citizens Councils of the State of Louisiana, which was a separate organization. I wanted to explain this because in drawing up the article—and I drew up the articles for practically all of them—I had a printed form made of the type that I did—I stipulated in it, against the wishes of those who were associated with me, that each separate council is a separate entity—although it might cooperate with others, it is not—it cannot legally be affiliated with any other or surrender any of its power. So, in order to understand what I meant, you have to know that there are many Citizens Councils in the State of Louisiana. The Association of the State Citizens Councils which is what I presume you were referring to, is a separate organization, not affiliated with any of the others. I was a member on the Board of Directors and officer of it from the time of its inception up until sometime in 1960 or thereabouts, at which time I dropped out, because I felt like it was no longer fight-

[fol. 860] ing the fight the way I thought it ought to be fought. In other words, I thought they were compromising on the question of segregation, and I would not be associated with any organization that I didn't feel like was going to be sincere in its fight.

Q. What office did you hold?

A. I was secretary of the organization. I might say that in the particular incident involved, Davis to whom I have heretofore referred had made some public commitments to close those schools in New Orleans which were threatened with integration. I, personally, at one of the Board of Directors' meetings offered a resolution demanding that he do so. It was passed. I was asked to draw it up, which I did, and I brought it with me in case there might be any question about it, and sent in it, and they refused or failed to ever do anything on it. After that, as far as I was concerned the Citizens Councils could take care of something else, because I was going to be fighting the fight for segregation, regardless. I will go further and say this, that to the best of my knowledge, the Association of Citizens Councils, which has changed its name to the Councils of Louisiana, is now for all practical purposes a dead organization. I doubt if they have got a hundred paid members. I'm not familiar with it, no longer being associated with it.

Q. While you were associated with the Association and also associated with the Joint Legislative Committee, were [fol. 861] you active in the field of voter registration?

A. I was just as active as I could be.

Q. What did you do?

A. I did a good many things. I wrote that pamphlet that you've been inquiring about, except for the—

Q. You're referring to "The Key To Victory"?

A. "The Key To Victory," right. I wrote it, except for the foreword in the thing, which was written by Willie Rainach, and I distributed that pamphlet very widely. I talked at length to officials to—I'm talking about state-wide officials, to local officials, to citizens everywhere, suggesting that what was badly needed in this state, and was more badly needed in the states in the north and east, was a complete clean-up of the voter rolls, and that there was no prospect of this happening with the type of people we had

in politics here and in these other places. So we had to do it from a grass roots standpoint.

Q. Did you talk to many registrar of voters about this?

A. I talked to, I would probably say, most of them in the state.

Q. And to Citizens Council groups throughout the state?

A. True.

Q. Did you urge them to conduct purges of voter registration?

A. I certainly did. Offered to help in any way I could.

Q. In these activities, did you urge that the constitutional [fol. 862] interpretation tests be strictly enforced?

A. I certainly did.

Q. Was your purpose in doing this to maintain segregation in Louisiana?

A. My purpose in doing this was to maintain decency in Louisiana. What the—I told this, incidentally, to the Supreme Court in the case of Larche—Hanna Versus Larche and others, or Larche Versus Hanna, in which I represented a number of people. Most yankees, if I may use that word to separate them from people in the South, do not understand what was going on down here. What we had here in the state of Louisiana was a political organization—the Long political administration of which the Davis administration is an illegitimate child, which had for years preyed upon the electorate of the state of Louisiana, both the white and negro. They kept themselves in power by virtue of keeping enfranchised a bunch of people who neither understood nor cared for any of the duties of a citizen under a republican form of government such as we are supposed to have. I was keenly interested in getting off the rolls all of these people.

Q. Did you think that the interpretation test, if applied strictly, would keep most of the Negroes off the rolls?

A. I thought it would keep a good many of the white people and practically all of the negroes. The reason for that is because I know that the negroes basically lack the intel- [fol. 863] ligence to pass a reasonable test of this kind when fairly administered.

Q. Did you tell the registrars this?

A. I certainly did. I told the United States Supreme Court the same thing.

Q. I'd like you to refer to first of all Appendix A attached to the complaint in this case.

A. Let me get you the original of the thing, if you want me to, because there is actually a little difference in what was testified to—although I believe the people that were testifying were unaware of it. O.K.

Q. Is this the booklet that you referred to, sir?

A. I have in my hands the booklet that I refer to, which I would prefer using if it's the same to you than using what you have there as Appendix A.

Mr. Dunbaugh: Would the court reporter mark those—

A. I will let you have these two back, too, because I have copies of these. I will let you enter these in the record.

By Mr. Dunbaugh:

Q. Fine.

A. There are actually two editions of this, "The Key To Victory." The only change between the original edition and the later edition was in paragraph number 3 on the 4th page. Between the intervals involved the state law had been changed in order to specify that one year's residence [fol. 864] for a non-resident was sufficient to qualify, and that was the only reason that the change was made.

Mr. Dunbaugh: Would the court reporter mark each of those so that—

A. The original edition is undated at the bottom. The second edition, which had this change, and I doubt that any of the previous witnesses were even aware of this, because I did it myself in December of 1958.

(The court reporter marked the two documents "Shaw-1" and "Shaw-2.")

By Mr. Dunbaugh:

Q. Now, Mr. Shaw, I would like to direct your attention to Appendix B in the complaint.

A. All right.

Q. Would you examine those? They consist of 12 pages altogether.

A. I will examine them in cursory manner. I think I am familiar with these already, if that's what you are referring to.

Q. What are they?

A. They were some cards which were suggested tests—let me give you a little background on that. The administration of the constitutional tests presented some difficulty in this respect that over the years it had been customary to give it orally. Registrars—I'm sure you are probably familiar with the case of Trudeau Versus Barnes, in which [fol. 865] our constitutional test was challenged in the state of Louisiana, and went to the 5th Circuit and was upheld. It went to the Supreme Court, and they denied writs of certiorari. In other words, Trudeau Versus Barnes had established, as far as we were concerned, by a ruling of the Supreme Court that our constitutional tests were legal and valid. Registrars gave those tests orally. And then we started getting complaints from a lot of Negroes who couldn't qualify and from a lot of white people who couldn't qualify, and from Earl Long who saw some of his voters being nipped off the rolls. And so, in an effort to try to make the thing as objective as possible, Judge Leander Perez, according to my information in his discussions with me, thought we ought to draw up a printed form of tests, and these cards—if they are the ones which I'm referring to, and I think they are—were originally adopted in Plaquemines Parish by the Plaquemines Parish Police Jury as a recommended form for their voter registration tests. I examined these things, and they appeared to me to be entirely practical and satisfactory, and in order to put down some of these complaints that Earl Long and his group of roll corrupters were trying to circulate, I advocated myself that the registrars use these, because I thought it was a good idea.

Q. Did the Joint Legislative Committee print up copies of those?

[fol. 866] A. Not to my knowledge. I think that—they were furnished to us. We had a lot of private people involved in this thing, and to the best of my recollection they were given to us by some of these people, who were doing it privately, who I—I don't recall specifically, because they

became widely used or widely put out by different Citizens Councils.

Q. Were they distributed by the Joint Legislative Committee at these Congressional District Meetings?

A. Whether they were distributed in bulk or not I don't know. I know that I had some along with me, and I discussed it with the registrars, showed it to them, and recommended that they use them. So as far as it being recommended by the Joint Legislative Committee, and at that time I was general counsel, I did my best to urge that they use them, in order to put down, as I said, this stuff that these local politicians—not only the Long administration, but a lot of these local corrupt politicians were doing the same thing, trying to prevent the rolls from being cleaned up.

Q. Now, I would like to direct your attention to Appendix C of the complaint and ask you to examine that, please.

A. (The witness complied.)

Q. Have you examined it?

A. I have.

Q. Will you tell us what it is, please?

A. Would I tell you what it is?

[fol. 867] Q. Yes, sir.

A. A letter to Mrs. Myrtle C. Beard, Lake Providence, Louisiana. It has got my name signed to it, but obviously not my signature. However, I subscribe to everything that is said in there. I'm sure whoever did it probably did it under my direction.

Q. That's a letter from the Joint Legislative Committee to the registrar of that Parish?

A. No, it's a letter from me to Mrs. Myrtle C. Beard, the registrar of Lake Providence, Louisiana.

Q. Did you send out letters like that to all the registrars?

A. Not to my knowledge. As a matter of fact I had even forgotten about this one. This is the first that I—as I say, that is not my signature, although it is my name signed to the thing, and I have no doubt that—I mean I would have told her this if she would have asked me and authorized anyone to write that. So I am not trying to disclaim any responsibility, of course. I think it's a very good letter.

Q. Do you think that letters like that were sent out over your name to all the registrars?

A. I really couldn't say, but I personally tried to tell registrars the substance of this myself, and I talked to most of them in the state.

Q. That accurately represents then what you did tell registrars while you were counsel for the Joint Legislative [fol. 868] Committee?

A. In an abbreviated way it does. I was much more full in my recommendations than this letter here. This is just a—

Q. How do you mean—what did you tell them?

A. I told them to be sure and clean up the rolls, and to get off these people—there are a good many illiterates in south Louisiana, who are—most of whom are—I say—not most of them, but a large percentage of whom are white, and then there are a lot of illiterates in other places of the state, who have been encouraged to vote by the same clique that I've been telling you about, and I tried to get the registrars to clean up the whole deal repeatedly, and am still trying to do so. Now, you understand, don't you, that in Lake Providence—I'm sure you—there were no negroes registered there at the time, so that the clean-up there would almost have to be a clean-up of white people. You follow that, do you not?

Q. Yes, sir.

A. I believe you are the attorney, are you not, in the suit against the Lake Providence registrar because there were none?

Q. Did you tell the registrars that this test that's in Exhibit B here—Appendix B, that this test was a test of native intelligence?

A. No. I recommended this to them. I said that the constitutional test—

[fol. 869] Q. Yes.

A. —and their ability to understand the duties and responsibilities under a republican form of government, which is another one of the tests, is basically a test of a person's understanding, which is native intelligence—in that you can educate a fool, but you'd still have nothing but

an educated fool when you get through, and he wouldn't be able to qualify. And therefore if they were correctly and fairly administered—that's the key to the whole thing—directed fairly—then it will amount to a test of ability, of a person's understanding, which is native ability. It is not education. Education can merely refine native understanding. If you have no native understanding to start out with, it can't be refined.

Q. You've been quoted as telling the registrars at some of these Congressional District Meetings that the test was a test of native intelligence and not book learning, and that experience teaches that most of our white people have this native intelligence while most Negroes do not. Does that sound like an accurate statement?

A. Well, I would probably have been more direct. I would have said that most of our white people have it and most of the negroes don't, and I wouldn't have put the experience on it. That's a matter of just—that sounds more like what some of the other people would have said, and I would say in effect the same thing. But I would try to be more direct [fol. 870] about it.

Q. Did you tell the registrars that?

A. Yes. Of course, they understood I was speaking in my opinion, you understand. I'm not—I don't purport to be a psychiatrist or a psychologist or anything, but I am thoroughly satisfied that that is true, and I will repeat it again for the record.

Q. You've said that that last Appendix C was not signed by you.

A. That is not my signature on there.

Q. Was the Joint Legislative Committee—did it have the practice of sending materials out to registrars?

A. I wouldn't say the Committee did. I would go out frequently and talk with them. I'm sure that other members of the Committee talked with them a great deal. As far as writing to them I've—at your request as put forth in your subpoena I have checked what records I have, and I came up with two or three letters that I had written. That's all that I could find. You realize that it is several years now since this has taken place, and my files—I have made no particular attempt to keep files.

Q. May I see those letters?

A. You may. You may make copies of them, too, if you so desire. Here's one, and here are the others.

(Mr. Dunbaugh examined same.)

Q. I notice, Mr. Shaw, that a good deal of that corre- [fol. 871] spondence deals with the Ouachita Parish?

A. That is correct. Would you like to make copies of that for your records?

Q. I don't think it will be necessary.

Mr. Kron: At the proper time I intend to have copies introduced into the record.

A. Those are my originals is the reason why I—

Mr. Kron: Yes, we'll go ahead and make copies and put them into the record. I don't see why we don't copy it now. I would like to have these in the record, so that if it's agreeable we can do it by agreement, that these will be copied and placed in the record in connection with Mr. Shaw's testimony, okay?

Mr. Dunbaugh: Okay.

By Mr. Dunbaugh:

Q. Do you recall the situation in Ouachita Parish?

A. I certainly do.

Q. Is it true that as a result of a purge conducted by the Citizens Council in Ouachita Parish that a great many Negroes were taken off the registration rolls?

A. No. It's true that as a result of a purge conducted by individuals over there a great many people were taken off the rolls, including quite a few negroes.

Q. Would you say most of them were Negroes that were [fol. 872] taken off the rolls?

A. I don't think I've ever made any attempt to try to divine between the ones, but in the main as I have said before, being fully satisfied of the fact that they would be the ones who were illegally registered in the bulk, I would without hesitation say that undoubtedly the largest group of them should be negroes. If they're not, I would be badly disappointed.

Mr. Kron: You may just be disappointed. They were not. Most of them were white.

By Mr. Dunbaugh:

Q. Is it also true, Mr. Shaw, that immediately after this purge was conducted by private citizens in Ouachita Parish, that the registrar of voters there started to use the interpretation tests?

A. That I couldn't say. You would have to ask the registrar on that, but let me explain to you how I came to be so well acquainted with what happened at or about that time. Among other offices I have held have been that of special assistant to the Attorney General of the state. And while I was in Baton Rouge one time a call was received there by Mr. Fred LeBlanc that they were having some difficulty in connection—Mr. LeBlanc at that time was the Attorney General of the state—having some difficulty in connection with registration and a voter clean-up in Ouachita Parish. I was headed back home, and he asked me to stop by and [fol. 873] talk to the registrar, which I did. I came into the registrar's office one afternoon, and I was discussing the matter with her when one Jimmy Noe, large, opulent politician of Ouachita Parish, who is a hanger-on of Earl Long, was there with a group of negroes, came in and tried to register them. And the registrar asked me whether she had to register them. He was telling her she had to register them, not because they were capable of passing the test, but because they were—one of them was a school teacher. He said therefore he was automatically, in effect—he was automatically entitled to register. The registrar asked me, as the Attorney General's representative who was there, whether or not she had to put this man back on the roll, and I told her that she did not. He had been challenged, and he had not responded as required, and I've forgotten the exact verbiage, but at that time there was a near riot in the registrar's office. We never got down to the point of swinging, but—

Q. Well, to make a long story short about that—I don't want to cut you off, but—

A. You won't, I'll assure you of that. I will go as long as I want to.

Q. Did you advise her that she would have to give interpretation tests to each of these applicants?

A. I advised her that she should give every applicant a registration test.

[fol. 874] Q. Including a constitutional interpretation test?

A. Including a constitutional interpretation test.

Q. Did she say at that time whether or not she had given the interpretation tests in the past?

A. I do not recall whether or not she said she had, but it was my general impression that she probably had not. I don't recall the exact fact, but that's my general impression. Of course, I pointed out to all of these registrars that failure to observe the law in the past was no excuse for failing to observe it in the future.

Mr. Dunbaugh: I have no further questions.

A. Let me ask you something. Didn't you want me to bring a lot of material up here? I brought a lot of it.

By Mr. Dunbaugh:

Q. Oh, that's true, I'm sorry.

A. I don't want you to go away empty-handed.

Q. Thank you. Have you the subpoena with you?

A. I do.

Q. All right. Why don't you just go through—which documents there do you have?

A. You have asked me to bring with me the articles of incorporation and the by-laws of the Association of Citizens Councils of Louisiana. The Association of Citizens Councils articles, I did not have any personal copy, but on volume number 208012 recorded under charter number 256 in book 56, page 588, of the mortgage records and charter book 2, page 142 of the records of Claiborne Parish, Louisiana, are filed the articles of incorporation. I have removed [fol. 875] these from the public records and brought them over here in order that you might be able to make a copy of them. These are the original articles of incorporation as filed here in Claiborne Parish, and I present them to you for copying. They will have to be returned to the Clerk of Court's office. In addition on June 25, 1962, an amendment

to those articles was filed which changed the name of the Association of Citizens Councils of Louisiana to The Citizens Councils of Louisiana, Incorporated, and which amended article 2, paragraph 6 of the other articles to state that this organization has a right to coordinate and establish local chapters, et cetera. I brought that over under the same situation. Those will have to be returned to the Clerk's office today.

Q. Yes, sir.

A. He will make a copy for you at 6 bits per page. Now, you've asked for the minutes or copies thereof and all drafts and notes thereof of each Congressional District Meeting held during the period December 1, 1958, through February 28, 1959, under the sponsorship of the Louisiana Joint Legislative Committee on segregation and the State Board of Registrars. I searched through my files, and all I was able to find was the minutes of 3 of these meetings. And these are not the original minutes. These are mimeo- [fol. 876] graphed copies of minutes which were distributed to parties at interest. I feel sure that your investigators have already gotten other copies of these minutes from registrars and others who were furnished with them. But these are the minutes of the Fourth Congressional District Conference held on December 17, 1958, the minutes of the Eighth Congressional District Conference held January 15, 1959, the minutes of the Seventh Congressional District Conference held January 28, 1959. I made an especially diligent effort to find the Fifth District meeting, but either it was never furnished to me, or I have lost it. I wanted it particularly because there were some additional matters included in that, particularly testimony to the effect that 17 of the negroes who had been removed from the rolls were later discovered to have been living in California the whole time anyway and commuting to Ouachita Parish for election. It further went on to point out—whoever testified at the meeting pointed out that in Ouachita Parish the way all of these illegally registered people got on the rolls, and most of them were negroes mind you, in my opinion at least, was that the Junior Chamber of Commerce had put on a drive there sometime back and filled out the registration cards of everybody. And this was done in

complete violation of every law of the State of Louisiana in connection with registration that I have ever heard of. There were thousands of these people that were put on the [fol. 877] rolls in violation of every law. I'm sorry I don't have the Fifth District meeting, but I hope that your F.B.I. or whoever investigated was able to turn up these notes. You may have these—they're my only copy, so I want you to—

Q. You want these back?

A. I want these back, but you may make copies of them.

Q. All right.

A. You would need copies of those if you don't have them, Mr. Kron. Now, you've asked for a copy of each edition of the pamphlet "The Key To Victory In The Segregation Struggle" published by the Association of Citizens Councils. I have heretofore furnished you with two copies, one was the original, the second was the 1958 edition, and explained that the only change was in connection with—at least as far as I know—I haven't read it verbatim, but the only thing that was supposed to have been was the change of qualifications for a non-resident moving into the state of Louisiana from two years to one year. That was due to an amendment, probably sponsored by the League of Women Voters and passed by the legislature.

Q. Yes, sir.

A. Now, you've asked for copies of all correspondence between William L. Shaw—my name happens to be William M. Shaw, but I know you were alluding to me, so I did make a search of my records and have previously offered to you [fol. 878] all that I was able to find.

Q. I notice you have some other things there. What—

A. I have here matters which should be in the record, if you like. One is a printed copy of the reasons for judgment in the case of Curtis M. Thomas Versus Ray McElveen, Et Al, a case tried in the 22nd Judicial District Court of Louisiana, Parish of Washington, which dealt with one facet of this voter clean-up, and it is an excellent opinion. I think it ought to be in the record for the edification of the judges who might read this record.

Q. That's a matter of law. It's in the Louisiana—

A. No, it's not reported.
Q. It is not?

Mr. Kron: This is a district court decision.

A. That's a district court, it's not a reported decision. It's a printed opinion similar to the things that were put out by the district courts of the federal court, United States, prior to their—the federal supplement.

By Mr. Dunbaugh:

Q. Yes, sir.
A. The rest of this—of course, these are not particularly important, notices and things of that kind of the United States Court of Appeals thing which is printed.
Q. That's a report of—
[fol. 879] A. Right.

By Mr. Kron:

Q. You were about to refer to another case, Mr. Shaw?
A. What's that?
Q. You were about to refer to another case besides the McElveen-Thomas case a moment ago?
A. Which case is that?
Q. I don't know. You said "and there's another case that should be in the record." And you were interrupted at that time.
A. No, that's the Tullier case which they've already gotten—
Q. Yes, well, that's reported.
A. —reported. And let me see—do you want me to search through my files and see what else I think might be needed to complete your record?

Mr. Dunbaugh: Let's go off the record for a minute.

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Mr. Shaw, you've provided us with copies of the minutes of 3 of the Congressional District Conferences. Did

you receive these shortly after the meetings took place?

A. To the best of my recollection what was done—I don't really know who made the—took the minutes, but whoever did had mimeographed copies made, distributed probably to everyone listed as being in attendance at those [fol. 880] meetings. You will note that is listed in the minutes there.

Q. Yes, sir. Did you read them over when you received them?

A. Probably not. I read them over last night, or night before last—Sunday night.

Q. Did they accurately represent what happened at the meetings to the best of your recollection?

A. I would say to the best of my recollection they do. You will find that each one of them fully explains to the registrars that they are not supposed to discriminate in any way because of race, color, previous condition of servitude and religion, political affiliations, and anything else of that type.

Mr. Dunbaugh: I would like these 3 marked and made a part of the record—

A. With leave to photograph and—

Mr. Dunbaugh: —with leave to photograph and return the originals—

A. —return the originals to me.

Mr. Dunbaugh: —to Mr. Shaw.

By Mr. Dunbaugh:

Q. Mr. Shaw, you testified earlier that you were the drafter of these articles of incorporation by the Association?

A. I was, yes.

Q. The purposes—the objects and purposes set forth in article 2 include, "to protect and preserve by all legal [fol. 881] means our historical southern social institutions in all their aspects."

A. It does.

Q. Suppose you examine it and tell me whether it does.

A. Yes. Also to combat this form of socialist communism that was being spread about the country from Washington.

Q. Let's talk about that first one.

A. All right.

Q. What did you mean by that?

A. I meant by that that the people in the South have been the traditional repository for Americanism as I understand it. The people in the east represent in large a hodge-podge of individuals, most of whom have no conception of the historical bases of our United States of America, and no love particularly for it. Most of them are either descendants of—I say most of them, a large number of them are either descendants of or themselves recent immigrants from totalitarian countries, countries that are used to monarchy, countries which never had a republican form of government at any time, and therefore they would naturally have very little respect for the Constitution of the United States and for historical Americanism as I understand it.

Q. Well, you are distinguishing apparently southern social institutions from other social institutions throughout the nation?

[fol. 882] A. Social institutions is a general term and it means the whole mores, the traditions, what we consider to be the whole course of our way of life.

Q. Does that include segregation of the races in public facilities?

A. It certainly does, because historically that is a constitutional right of the people of the United States and has always been considered that up until some of these people got control of the government.

Q. Does it include white political supremacy?

A. Well, now, I'll put it this way, white political supremacy is an automatic fact if you administer the laws the way they were intended to be. We were never supposed to be a pure democracy. We were supposed to be a representative democracy, which means representation of people who understand the nature and function of the government. In no state that I know of has—have we had unlimited universal suffrage. I hope we never have it. There has always

been some qualification on registration on voters; in essence, the person who votes is a representative of all the rest of the people living in that particular state or that particular country, and in turn he elects people who represent him, and who represent in turn all of the people. So, in my opinion, the way I've always felt about it is that when you follow the normal course of a representative government it will amount to the people who have intelligence, [fol. 883] primary intelligence. They will be the ones who will, if you want to call it supremacy, you can call it that; if you want to call it they would be the ones who would be naturally selected by the course of events, you may call it that.

Q. By that you mean the white people?

A. I mean the people who—by white I mean in—I would more or less distinguish against the negro—that's what you're speaking about, because there are other races who—the Chinese, some of the native Indians who have been horribly discriminated against by the federal government, who do have the basic intelligence, that the negroes, according to every unbiased test that has been made, do not possess. So I'm not—I don't mean necessarily white. I mean that it would exclude the ones who are not intelligent, and except for minor cases of overlapping, this would mean most of the negroes would be excluded.

Mr. Dunbaugh: I have no further questions.

Mr. Kron: I have no questions.

Witness excused at 12:45 P.M.

[fol. 884]

PLAINTIFF'S EXHIBIT NO. 22I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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UNITED STATES OF AMERICA, Plaintiff,

vs.

STATE OF LOUISIANA, et al., Defendants.

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The deposition of BILLYE L. ADAMS, witness in the Federal Court Action, taken at the instance of defendants in the Federal Court Action, taken in his offices in Monroe, Louisiana, on the 10th day of October, 1962, commencing at 2:18 P.M.

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[fol. 885] The witness, BILLYE L. ADAMS, after being duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. State your name and address, please.
A. Billye L. Adams, 314 South Grant Street, business address, Monroe, Louisiana.
Q. What is your occupation?
A. Attorney.
Q. In 1956 were you one of those who challenged the registration rolls in Ouachita Parish?
A. I was.
Q. Were you at that time an officer of the Citizens Council?
A. At that time I was President of the Citizens Council.
Q. Did the other members of the Citizens Council participate in this challenge?

A. When you say the other members, that is not correct. Some members did. The membership being fairly large, there was only a small portion that actually did the challenging.

Q. In conducting the challenges how did you go about it?

A. Mr. Dunbaugh, let me—I will be glad to explain our whole procedure to you if you'd like. I've just been talking about it here. From the outset, let me give you just a brief history. This took place approximately six months after a [fol. 886] gubernatorial election here in Louisiana. At the time of that election it was rampant within this parish, the idea of selling votes. It was obvious, and the whole parish was in an uproar about it. A group of leading citizens—I came into the picture just a little bit later after the original organization—set out to see what they could do about that, because they were selling the votes—not only selling the votes—they were voting more than once—voting several times, in fact. We set out then to clean the rolls. At about the time this group was about organized and getting ready to go, well, then some—by some way the Citizens Council entered into the picture, and the ideas were identical up to a point. And at that time, then, all efforts were consolidated towards the same purpose. We went to the registrar's office preliminarily to start, to see what was there and in the matter of investigating and seeing what the shape of the registration was. Then, having knowledge of some two or three years before of a wholesale registration, whereby they would register in the halls, and people were registering one another, and in a very loose fashion. We knew that. So we started then looking at the cards, and lots of them were not half filled out. Most of them were not filled out in the registrant's own handwriting, and some of us recognized some few people there, and knowing about their own qualifications, too, then we proceeded on a very cautious basis to [fol. 887] challenge some of those that were grossly wrong, should I say, that were something less than half filled out. Well, at the time we started, the books were closed, preceding an election or right after an election; I don't recall what the deal was. Anyhow the books were closed, but then while we were working there we had occasion to observe some more registrants. People who came in there to register lit-

erally did not know where they were. They were hauled in there by trucks, and I'll say that most of them worked for the city at that time, coming off of garbage trucks, and there would be one person back behind the background that was just herding them up there, and they were obviously being made tools. It was then that it became very apparent that we were missing the bulk of the ones that were unqualified to vote. So then we turned back and started challenging, should I say, more severely—I suppose would be the word. We challenged those that the cards were not filled out correctly, or were not completely filled out, or filled out in their own handwriting, or those—in some rare instances, the ones that we knew—as I say, we did know some of the people—that we knew that didn't have, as the expression is, "sense enough to get in out of the rain," but yet had a card filled out there perfectly by someone and evidently signed by the same person, that we started challenging some then on the basis of inability to interpret the Constitution as the [fol. 888] law requires. We went through—at the outset the principal evil at the time was that of the major colored precincts out here, and, too, there was an upcoming election. We wanted to stop it off in that election, too. The most of the white people were over in Ward 5 across the river, who were not coming up in that election, so we concentrated at the outset on these colored people, but we went right on through. After we challenged these we continued right on, and even after the election there we continued on and challenged the white. Now, our method of challenging the whites—the bulk of the whites, understand that—was a little bit different in this regard, and this regard only, it created such a problem by having us working and challenging that it became almost impossible for the registrar to handle. After the election when things quieted down a bit, the registrar volunteered that she would issue the challenges for us, the ones that we had picked to be challenged and for the reason that we challenged them. And the registrar would continue the procedure, which she did. And that accounted for the bulk of the white people.

Q. So that the people who were challenged by affidavit of these members of the Citizens Council were primarily Negroes?

A. Primarily, I suppose. You see, at that time, though, we had already had our lists and our reasons that we turned [fol. 889] over—we kept copies of the things, we turned over to the registrar to continue solely as a matter of convenience, because had she not done it we were going to.

Q. All right. Do you know whether or not the constitutional interpretation test was used here in Ouachita Parish prior to that time?

A. Prior to that time?

Q. Yes.

A. I don't believe that any test was ever used, really.

Q. Did you have to take the constitutional interpretation test when you registered?

A. I don't recall.

Q. Do you know if it has been used since that time?

A. I've not been around the registrar's office for several years, but I'm under the impression that it is being used today.

Q. Is it true that shortly after the purge in 1956 that you prepared for the registrar a test to be used?

A. Yes and no. Yes and no. I did have some copies of the Constitution, and as a matter of convenience there I did give the registrar some—some phrases of the Constitution on cards, a whole series of them by cards, for her convenience only.

Q. Did you provide her with answers to those?

A. No.

Q. Would you recognize the cards again if I showed them [fol. 890] to you?

A. I doubt it. I placed no particular significance on the cards other than just as a matter of convenience for the registrar at that time. As well as I recall it was probably about 4 by 6 cards—4 by 6 inches.

By Mr. Kron:

Q. Did you prepare those cards at her request?

A. Yes, sir.

Q. It was not your idea nor your proposal?

A. I would hate to answer that categorically, either way, but I don't believe that it was my notion to start with.

By Mr. Dunbaugh:

Q. I take it that you did encourage her to give the test?
A. Yes. Yes. Not only give the test, but encouraged her to insist upon all future registrants to be—to show their qualifications.

By Mr. Kron:

Q. Of Negroes?
A. Everyone. Everyone.

By Mr. Dunbaugh:

Q. Including those people who had been challenged?
A. Including those.

(Off-the-record discussion.)

By Mr. Dunbaugh:

Q. Let me show you these photographs, Mr. Adams. Disregard the identification notes in the photographs, please. [fol. 891] A. I couldn't with any good conscience recognize any of that. In fact if anything I would say that it wasn't my type. That's the type on my typewriter, you see, and it was then.
Q. All right.
A. I mean that the picture is not clear enough. It might be—very well be the same. It doesn't look like it, though.

Mr. Dunbaugh: No further questions.

By Mr. Kron:

Q. Mr. Adams, the purpose of this lawsuit is an attack upon the constitutionality of the constitutional interpretation test, and in the allegations of the complaint, after setting forth that our Constitution of 1921 changed a portion of the qualification tests for prospective registrants from the old grandfather's clause to an interpretation of a portion of the Constitution, the government has alleged that the purpose of adopting this test was to provide a means by which the disenfranchisement of the Negroes could be per-

petuated. Now, in all of your activities in the conduct of the clean-up of the rolls of Ouachita Parish, both as an individual before being a member of the Citizens Council, and subsequently while President of the Citizens Council, was there ever—was it ever your purpose to disenfranchise—was it ever your purpose to use this interpretation test in [fol. 892] challenging or otherwise to disenfranchise Negro applicants for voting?

A. Emphatically not. Though I realize that some people had that impression. Most of those people either being politicians who were after that segment of the vote, and by, should I say on my own side, members, not active members who—in any large membership you have some, should I say, wild eyes, and we had some of those that frankly were disappointed in what we did. But there was never the intention nor the purpose of this purge, as you call it, to challenge the Negro only as opposed to the white.

Q. All right. We'll go along down the line to that. Now, there were members of your Citizens Council who felt that way?

A. I think so.

Q. All right. And whose whole purpose in being members of the Citizens Council was to get at, as you say, that segment of the vote—the Negro vote?

A. That segment of the membership was not necessarily after the Negro vote as it was against anything to improve our situation in the civil rights field.

Q. All right.

A. And that was one of them.

Q. But as President of the Citizens Council and therefore in the active charge and administration and formation of policies of that council, did the Citizens Council, in con- [fol. 893] ducting the purge, do so with the purpose of disenfranchising Negroes and Negroes alone?

A. No.

Q. As a matter of fact, could you, by way of some reasonable estimate for purposes of this record, give us the numbers of people that were removed from the rolls in the parish, both black and white?

A. While I'm obliged to rely solely on memory, not having any records before me or any time in the recent future

I could only say that approximately one-third of the total number purged, as you say, from the rolls were Negro. By far the bulk of them were white people. And, incidentally, they were challenged for exactly the same grounds.

Q. All right. Now, it was stated by counsel for the plaintiff a little while ago, and your answer was yes to that question, that the bulk of those removed by the Citizens Council members themselves in the challenging were Negroes. Would you explain the reason why again?

A. I thought I had explained that at the outset, that in the method of challenging—actually, the Citizens Council was responsible for the challenge of all, the black and the white. However, solely as a matter of convenience, after the election—as a convenience to the registrar—and at that time only a fairly small percentage of the whites had been challenged at that point, our lists were turned over to the [fol. 894] registrar for her to actually issue the challenges.

Q. So that she performed the ministerial function from your list?

A. That's exactly true.

Q. Even though she did the ministerial work, the challenges accomplished by the registrar were on the basis of the names from a list—

A. That we provided—

Q. —furnished her by you?

A. That's right. And I will further add that we followed up to see that the ones—the list we followed—gave her were challenged, because had she not challenged them we would have.

Q. In furnishing the registrar with these cards for the purpose of using them to give the interpretation test, I think you testified that you did so to the best of your memory at her request, but were in favor of having the test administered. Was there or was there not at any time any discussions between you and the registrar that that test should be administered for the purpose of disenfranchising Negro applicants for registration?

A. These cards were given as one of the qualifications that all registrants must meet in order to register, that was administered and was intended to be administered to all registrants. Incidentally, I may add here too, that most of

the complaints from prospective registrants were from white people. The public also got the notion to some extent [fol. 895] that this was primarily a purge of the Negro voters. And they didn't feel that they should have to follow it, too. But most of the complaints were from the whites, and probably as many or more were not allowed to register for the same reason.

Mr. Kron: I have no further questions.

By Mr. Dunbaugh:

Q. How did you pick out these sections that you suggested that the registrar use?

A. The sections of the Constitution, you mean?

Q. Yes.

A. Really, rather indiscriminately, as well as I recall, other than trying to find—if you will look at our Constitution, Mr. Dunbaugh, the thing will cover the waterfront, and a large portion of it is explanatory, as to what it itself is supposed to cover, but I attempted in there in getting thoughts as concise as possible, basic provisions that were short—for instance, I discarded the notion of getting a section of the Constitution that was 8 or 10 pages long or anything of that sort.

By Mr. Kron:

Q. Am I correct when I understand you to mean that you were trying to perfect a simple test that the ordinary average man could understand and pass?

A. That is true. That is true.

[fol. 896] By Mr. Dunbaugh:

Q. Why was it again that the second phase let's call it of the purge was turned over to the registrar?

A. Mr. Dunbaugh, really you would have had to have been around and seen some of that to really appreciate what I'm saying. Just prior to the election when the purge, as you say, was going real strong—why they wanted to do it, I don't know, but for two or three days you wouldn't see a soul, and then all of a sudden there would be hundreds, and

in some cases thousands, trying to get in there all at one time.

Q. To get into the—

A. To get into the registrar's office.

Q. For what purpose?

Mr. Kron: Before the rolls closed for that election.

A. Before the rolls closed, and even after the rolls were closed, it was a matter of coming in there on affidavits to show that they did have the qualifications, and lots of them did at that time.

By Mr. Dunbaugh:

Q. These were Negroes trying to be reinstated?

A. Negroes and some whites. They were mostly Negroes. They were then doing what they should have done to start with is what our plan was—if they would come in and show that they were—could fill out a card and were qualified, we would withdraw the challenge. But they didn't believe us [fol. 897] when we said that's what it was, and didn't want to fill out a new registration card; so they came in on affidavits. But they were in there at times by the hundreds and in some instances by the thousands, and it became an impossible situation. They had newsmen and the television, and it was just about as hot a thing—I suppose we needed troops here like they did in Oxford at the time. It came nearabout riot there a time or so, and it became impossible to conduct the business of the office of the registrar; so in order to ease that load and to keep these people from coming in there just by the hundreds, well, then we said, "All right, you do it the easy way, if it's more convenient for you. You take our list and challenge them as you can." Realize this, too, Mr. Dunbaugh, that that was after the election, and there was more time.

Q. So that—

A. While I'm talking about election remember this thought, too, now, that this election we're talking about, that was in Wards 3 and 10 of the city of Monroe.

Q. Yes, sir.

A. That's the reason that most of them were colored at that time.

By Mr. Kron:

Q. That's the reason the colored were challenged first?

A. That's the reason the colored were challenged first. [fol. 898] The next part of the evil, as we saw it, was in Ward 5 over across the river. That was in the white section, but that's the reason that the whites really didn't—should I say didn't catch it until that time.

By Mr. Dunbaugh:

Q. But after it was turned over to the registrar, I take it that you didn't have the crowds again over there, thousands of people trying to be reinstated at one time?

A. For some short time, yes. For some short time. Most all of the heat, should I say, was off with the election.

Q. I take it that when she was handling the challenges, she didn't challenge them in such great numbers that she couldn't handle those—

A. Actually, she did—

Q. —who wanted to come back in—

A. Actually, she did, I believe she did. I mean, I'm straining my memory again, but I believe she challenged them just in as great a number as we did before. This greater number situation seems to be pretty bad on the face of it, Mr. Dunbaugh. It did at the time, unless you were there to see what was going on. Notice I've just said that we would issue a number of challenges, and we wouldn't see a soul for several days, and then all of a sudden they would all come in there. They would get off and have meetings or something or another. They were getting all sort of notions and advice, I suppose—not believing us, they wanted to conduct their [fol. 899] own campaign, I guess.

Q. Do you recall about how many people you challenged?

A. Frankly, I don't. I imagine we must have challenged —we, I'm talking about directly and indirectly, probably about 12 or 14 thousand.

Q. I meant directly how many did you challenge?

A. We challenged directly about 4,500 or 5,000, I suppose.

Q. Within what span of time were those challenges sent out?

A. I think it must have been about 6 or 8 weeks, Mr. Dunbaugh, as well as I recall. That figure was not too important to us for this reason, as soon as we started sending out challenges, I suppose that about half the ones we sent out came back, moved, deceased and that sort of thing.

Q. I believe you said that the registrar challenged in great numbers after you had stopped challenging?

A. Well—

Q. Did she challenge in such great numbers that there were ever a thousand people over there again after that time?

A. There was no reason for it. There was no reason for it—that they should have come in in great numbers the first time either. Had the people come in in the normal course of events upon receiving their challenges to start with they could easily have been handled. It was because they wouldn't come in for several days and then come in groups that caused the trouble.

[fol. 900] Mr. Dunbaugh: I have nothing further.

By Mr. Kron:

Q. Did you have any information, Mr. Adams, or of your own knowledge that these splurges—these people coming back in groups after two or three days of quiet and calm were the result of organized effort to maintain their position on the rolls?

A. Do I have any—

Q. Do you have any direct knowledge of that fact?

A. Any personal knowledge or personal observation? No. Though it was common knowledge, should I say, as to what was going on. It was on television. Jimmy Noe, the owner of the station out here, was being their champion at that time. They were conducting meetings out at the Carroll High School, and they had people giving them all sorts of advice. I didn't attend any of those; hence, my—

Q. You knew those meetings were held—

A. Oh, certainly.

Q. —as a fact?

A. Oh, certainly.

Q. And it would be after those meetings that this splurge of people—

A. That's true.

Q. —would come into the registrar's office?

A. That's true.

[fol. 901] By Mr. Dunbaugh:

Q. When all of these people were coming into the registrar's office, where were you?

A. Well, prior to the election I was in the registrar's office, either there or in the police jury room, right next to it.

Q. What were you doing in the registrar's office?

A. I was working. I was still challenging and compiling lists and was going on through. We were not actually through with compiling the lists of the whites, Mr. Dunbaugh, until some few days after the election.

Q. Did Mrs. Lucky, the registrar, seek your advice during this time?

A. Well, it's a broad question. In both regards, what would be considered advice, or what did she ask me. Certainly, it was understood by she and I and all of us that we were there for the purpose of challenging anyone that had illegally registered, and would do so again. And if someone were illegally registered in our presence, that we would challenge them again. That was fairly well understood, but so far as seeking my advice, I couldn't conscientiously say yes.

Q. Do you recall if she ever showed you anyone's application form who was applying then, or reapplying at that time?

A. Oh, no, not at—you mean while she was in the process of registering some, did she turn to me, for instance, and ask—

[fol. 902] Q. That's right.

A. Oh, no.

Q. Do you recall whether or not she forwarded any letters to you that she received from some of those people?

A. Any letters from any of the registrants?

Q. That's right.

A. There would be no reason for it, so—

Q. Do you recall that she did not, or you just do not recall whether she did?

A. No, I said there would be no reason for it. However, accordingly, she did not forward me any letters that she received from any of her voters or registrants or applicants.

Q. Did she receive any legal advice from anyone during this time?

A. I'm sure she did, Mr. Dunbaugh. I imagine she got—well, I'm confident she got some from the Attorney General's office. As a matter of fact, I know she called the Attorney General's office a couple of times.

Q. Do you know who came up from the Attorney General's office to advise her?

A. Well, at one time right in the heat of the thing it was—Bill Shaw was a special attorney general who came up.

Q. Was he in the office during this time?

A. He was there one afternoon, when he came up to attempt to explain—he came up here, incidentally, at the [fol. 903] behest and demand, so to speak, of Jimmy Noe, and Jimmy Noe, and no telling how many hundreds or maybe thousands of people were in there trying to get an interpretation of what was going on. Shaw attempted to even explain it to him, but there again we come nearabout to the riot stage.

Mr. Dunbaugh: No further questions.

Witness excused at 2:58 P.M.

[fol. 904]

PLAINTIFF'S EXHIBIT No. 23A

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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Deposition of EDDIE R. HEARD, taken at the instance of and on behalf of Plaintiff; on 1-21-63 in Minden, Louisiana.

[fol. 905] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

---

EDDIE R. HEARD, witness called at the instance of and on behalf of Plaintiff in the above captioned matter; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. Would you state your name?
A. My name is Eddie R. Heard.

Q. Are you a negro?
A. I am.
Q. Where do you live?
A. 114 Abney Street, Minden.
Q. Is that in Webster Parish, Louisiana?
A. Yes, it is.
Q. How long have you lived in Webster Parish?
A. Since 1947.
[fol. 906] Q. Do you own your own home?
A. I do.
Q. How long have you owned your home?
A. About five years.
Q. Where were you born?
A. Claiborne Parish, Homer.
Q. When?
A. December 22, 1918.
Q. How much education have you had?
A. Finished high school, finished college, finished graduate school; had medical technician training in the Service.
Q. Where did you go to college?
A. Leland College, Baker, Louisiana.
Q. And what graduate work have you done?
A. Bishop College, Marshall, Texas.
Q. And what degree?
A. M. A. Degree.
Q. What sort of work do you do now?
A. Teach; Principal.
Q. You are a Principal; where?
A. G. L. Jones Elementary School, Minden, Louisiana.
Q. How long have you been Principal?
A. Since 1955.
Q. Were you in the Army?
A. Yes, I was, 3½ years.
[fol. 907] Q. Where?
A. In the Pacific Theater of Operations.
Q. Honorably discharged?
A. Honorable discharge.
Q. When was the first time you tried to register to vote in Webster Parish?
A. In the registration period between 1949 and '53.
Q. And you became registered?

A. I did.

Q. When was the next time?

A. 1953-1956 I became registered.

Q. And you became registered then?

A. Yes.

Q. And then when was the next time you tried to register?

A. The next time I tried to register was in '57, I believe.

Q. What happened then?

A. Well, I went into the Registrar's office and told her I was there to register, and she asked me if I had registered before; and I told her I had, and she looked on the record, I guess, and checked, and then she gave me the constitution to read. I started reading it and—

Q. How did she give it to you, was it in a book?

A. I believe it was in the book; I know it wasn't a single sheet of paper.

Q. Did she pick it out for you, or did you select one?

[fol. 908] A. She picked it out for me and asked me to read it, and I started reading it; and she said, "Read it silently," and I read it silently.

Then she asked me what was my interpretation of it, and I gave her my interpretation of it; and she told me that wasn't quite it, to try again; and I tried again, and she said, "That's not it," and that was all and I left.

Q. Do you remember what section that was?

A. I am not absolutely certain of the section, but I do know that it deals with taxation authorization in New Orleans, which I wasn't familiar with; because the Constitution of Louisiana is very very complex, and being up here in Minden I had no knowledge of the mills and so forth down in New Orleans at that particular time.

Q. You did try to explain it, though?

A. I did try to explain it.

Q. Would you look through here and see if you can find around where it was?

A. Yes. To the best of my knowledge, this seems to be the one.

Q. Well, would you identify that?

A. Section-24.2.

Q. Of what article?

A. Article 14.

Q. Have you tried to register again since then?

A. I went back once after then, and at that particular [fol. 909] time the person in the office said that she wasn't registering at that time.

Q. Was it the Registrar, or was it somebody else?

A. It was someone else, it wasn't Mrs. Clements.

Q. And you haven't been back since then?

A. I haven't been back since then.

Mr. Ross: I have no further questions.

Cross examination.

By Mr. Kron:

Q. When you say you have not been back since then, you mean not even again during this new registration?

A. I haven't been back during this—

Q. At all?

A. At all.

Q. And you're not personally registered?

A. I'm not.

Q. Are you familiar with the fact that registration procedures have been changed?

A. I am.

Q. Could you in brief tell me what you understood those new registration procedures to be?

A. Well, I understand that in the new registration procedures that you are to fill out cards—I believe it's ten cards you have to fill out—and make an affidavit; probably write some portion of the preamble to the constitution.

[fol. 910] Q. Anything involving the application or the giving of the test of any kind?

A. Well, the mere fact that you have to select the answers to the questions constitutes a test.

Q. That's what you meant by the ten cards?

A. That's right.

Q. You're not referring to the application card, as such?

A. No sir.

Q. All right. So that the ten cards you referred to are a selection of 1 of 10 tests?

A. That's right, sir.

Q. And you understand that those tests are objective, and that they are in writing; and that a selection of a proper answer out of a multiple choice is the procedure?

A. I am familiar with that.

Q. All right. Do you understand that this is a test of the understanding of the citizen who applies for registration, in understanding the obligations of citizenship?

A. I do understand that this is—

Q. Do you feel you could pass such a test?

A. I'm almost certain that I can.

Q. Do you understand that that test, under the new procedure, is to be given to everyone, regardless of race, color or creed?

A. That's what I have read in the papers, and have heard too.

[fol. 911] Q. All right. Therefore, having read that, that is your understanding of it?

A. That is my understanding.

Q. All right. Now, why, then, have you not been back?

A. Well, the reason why I haven't been back is I just haven't been back under this new procedure. I plan to go back; I just haven't been back; I mean, it's not any reason for it, I just haven't been back.

Q. In having been turned down—let's not say failed, but in having been turned down in 1957; I think, from the trend of your testimony, it's admitted that you didn't understand that particular section of the constitution?

A. Well, as far as the Registrar was concerned.

Q. Didn't you say you were not familiar with the methods of taxation in the southern part of the state, in New Orleans?

A. Well, I did, but—

Q. Would you say, then from that, that your explanation of it was not proper?

A. No sir.

Q. You think it was correct?

A. I think what I gave her was correct, to the best of my interpretation.

Q. I see—but, then, you're not sure of that; I mean, you're not familiar with that taxing procedure in New Orleans, as you testified; you're not sure of that?

[fol. 912] A. I'm not familiar with the methods of taxation and all of the procedures that go on in New Orleans; but after reading that portion of the constitution as it was handed to me, I feel that my interpretation was as good as anybody could give it.

Q. All right. And you do plan to go and try again?

A. I do.

Q. Under this new test?

A. I do.

Q. And you feel you will be able to pass it. Now, the new test being in writing and being a permanent record to be kept, under the direction of the law, in the Registrar's office; then you would know with certainty whether you passed the new test, or didn't pass it?

A. That's true.

Q. You can see nothing wrong in that, can you?

A. Well, just basically—I mean, I would not like to commit myself, because—

Q. As long as this test is to be given to everyone, then you can find nothing wrong in that procedure, can you?

A. As far as I know now, I can't.

Q. The new registration period began when?

A. Well, the new registration period began in '61 I believe.

Q. In January of 1961?

A. Yes.

Q. And you have not been back during this two years?

[fol. 912a] A. I have not been.

Mr. Kron: All right. That's all.

Mr. Ross: No further questions. Thank you, Mr. Heard.

Witness excused.

[fol. 913]

PLAINTIFF'S EXHIBIT No. 23B

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF EDDIE V. MORGAN, taken at the instance of and behalf of Plaintiff; January 21, 1963 in Minden, Louisiana.

[fol. 914]

STIPULATION

It is stipulated by and between Counsel for the Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserve the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

---

EDDIE V. MORGAN, witness called on direct examination at the behest of and on behalf of Plaintiff herein; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. What is your name?
A. Eddie V. Morgan.

Q. Are you a negro?
A. Yes sir.
Q. Where do you live?
A. 309 Joel Street, Minden, Louisiana.
Q. Is that in Webster Parish?
A. That's right, Webster Parish.
Q. How long have you lived in Webster Parish?
A. All of my life.
[fol. 915] Q. Do you own your own home?
A. I do.
Q. How long have you owned it?
A. I bought it in 1943—no, '42, that's right.
Q. Where were you born?
A. Born at Dubberly, Louisiana.
Q. When were you born?
A. April 5, 1905.
Q. How much schooling do you have?
A. Finished high school, and I took a teachers training course, and then took an extension course at Grambling, Louisiana.
Q. What sort of work do you do now?
A. I'm an insurance salesman.
Q. How long have you been doing that?
A. I've been in the insurance business since 1936.
Q. Are you married?
A. Yes.
Q. Have you any children.
A. No sir, no children.
Q. Were you ever in the Service?
A. I went in the Service in 1942.
Q. Where?

The Witness: What theater?
Mr. Ross: Yes.

A. European Theater of Operations.
[fol. 916] Q. Honorable discharge?
A. Honorable discharge, yes sir.
Q. Did you ever try to register in Webster Parish?
A. I did.
Q. When was the first time?

A. The first time was in 1945.

Q. And when was the next time?

A. Well, see, they have periodic registration, and I registered every four years up until 1958.

Q. Until 1958?

A. Yes sir.

Q. And what happened then?

A. That's when I had trouble trying to.

Q. Was that when you went to the Registrar's office?

A. That's right.

Q. And would you tell me what happened there?

A. I walked in there and told her I came to register; she asked, "What's your name?" I told her, and she reached under the counter and got a page torn from the Louisiana Constitution, and she told me to read that and interpret it.

So, I read it, and the first few words I said she stopped me; she said, "You're wrong, read it again." I read it the second time and she said the same thing, "Read it again." Well, the third time I used the same procedure, and after I read it she said, "You're wrong."

[fol. 917] So, I made an attempt to copy this title, but she snatched it off of the counter and said, "You'll never see this again when you come back here." So, I went home and got my constitution—I had one there—and I found that same topic what she told me to read.

Q. When she told you to stop, were you reading this section to her, or were you trying to interpret it?

A. I was interpreting it to my understanding, my best understanding.

Q. Now, if I asked you to identify that section from the Louisiana Constitution, could you?

A. I could.

Q. Would you look in here and see if you can find it?

A. Yes. Here it is; "Revenue & Taxation."

Q. Would you identify this article and section?

A. The article is Article-10. That's what you want?

Q. Yes. Now, what is the section?

A. Section-1.

Q. How far down did you have to read?

A. Well, I read the whole article, down to the bottom of the page; and when I started interpreting it, I said; "Taxa-

tion; the power of taxation is vested in the State Legislature." She said, "That's not it, read it again."

Q. She stopped you right there?

A. She stopped me there.

[fol. 918] Q. Well, was it a whole page that you read?

A. Just a page torn from the book, this page right here.

Q. Did the article start at the top of the page and go all the way down to the bottom, the part that you read?

A. Well, she had it marked off right at "Revenue & Taxation", that's where she had it marked off.

Q. Well, about how many lines of the page was it that you read?

A. I read down to the bottom of the page and I stopped.

Q. Did it start at the top of the page?

A. No sir, not at the top.

Q. About the middle, or where did it?

A. Just the same as this.

Q. About two-thirds of the page?

A. Something like that.

Q. Well, did you leave after that?

A. I left; she told me to go home and study. So, I knew I had a constitution at home, and I went home and got it and I found that same topic.

Q. Have you been back—?

A. I haven't been back any more, not to try to register.

Q. Now, I want to get the time straightened out. When was this last time that you—in what period was it?

A. January 2, 1958.

Q. 1958?

A. 1958.

[fol. 919] Q. That was in the old period, and the new registration period started in 1961?

A. Well, see, everybody was wiped off in 1957, automatically off. Well, January 2nd everybody would have to register over again, and January the 2nd I was here to register, about 11:30 that morning.

Q. And that was in 1957?

A. 1958.

Q. 1958?

A. That's right.

Q. And that period ended in 1960?

A. 1960.

Q. And in 1961 and on, you haven't tried, is that right? Did you try in 1961?

A. In 1960 is when I tried again.

Q. In this most current period, or during the last preceding period?

A. 1960 is when—that's when I was turned down.

Q. Well, let's get this straight, now. What I want to find out is whether it was in the current registration period, after the books were last cleaned off?

A. That's right, after everybody was off. See, we had to reregister in 1960; that's when I went back to register again.

Q. Now, on these dates again—

A. Yes sir, I think we got crossed up on those dates.

[fol. 920] Q. Yes, let's get the record straight on these dates; just take your time. Now—

A. OK, we'll get it straight this time. I went in to register in 1960, see; that's when the—in 1957 I didn't have any trouble, in 1960 is when I had the trouble.

Q. Did you pass in the 1957 and '60 period?

A. That's right.

Q. And then when the books were cleaned, I believe that it was January, 1961, when the new period began?

A. That's right, 1961.

Q. When the new period began?

A. Yes sir.

Q. And that was the time you were turned down?

A. That was the time.

Q. The time that you've described?

A. The time I was turned down, that was the time I described, yes sir, on that topic that you had.

Mr. Ross: I believe that's all.

Cross examination.

By Mr. Kron:

Q. In 1957, which was the beginning of a new registration period at that time, you did register?

A. I registered that time.

Q. And when you registered that time, did the Registrar give you the constitution to interpret?

A. She did.

[fol. 921] Q. And that was in 1957?

A. That was in 1957.

Q. Now, in 1957 do you recall which section of the constitution she asked you to interpret?

A. In 1957; I don't recall in 1957, but anyway she gave me one.

Q. Was it Article-10, Section-1, "Revenue & Taxation" in 1957?

A. No sir; it was not Article-10 in 1957, no sir.

Q. All right. So, Article-10 was in 1960—?

A. 1960.

Q. —when she refused to register you—?

A. That's right.

Q. —alleging or claiming that you didn't properly interpret Article-10, Section-1, of the Louisiana Constitution?

A. That's right.

Q. Now, in 1957 you were given a section of the constitution?

A. I was given a section in 1957.

Q. And you interpreted that?

A. I did.

Q. And she accepted that interpretation and put you on the rolls?

A. That's right.

Q. All right. In 1960, after having been refused, I understood you to say she suggested that you go study and come back. Did you come back and try again?

A. No sir, I didn't come back.

Q. Now, actually I mean 1961?

[fol. 922] A. That's right, 1961.

Q. All right. You have not been back since that time?

A. No sir.

Q. Why not?

A. My reason for not going back; I knew I was right in the first place, and if she turned me down then, I didn't see any use of going back.

Q. You were sure you were right in your interpretation in January, 1961?

A. Yes sir, because of the fact that it was self-explanatory.

Q. But the Registrar told you that you were not right; is that so?

A. She said, "That's not it, read it again"; that's what she said.

Q. Read it again?

A. Yes sir.

Q. Do you know whether she turned you down because of the improper reading of it, or because of your interpretation of it?

A. It must have been because of the interpretation, because I read it silently; she couldn't say it was because of improper reading.

Q. You read it to yourself?

A. That's right.

Q. And then you began to explain to her what you thought it meant?

[fol. 923] A. Yes sir.

Q. And she said that was not correct?

A. That's right.

Q. All right. Now, in 1953, when you registered before, were you required to take an interpretation test?

A. No sir.

Q. Or at any time prior to 1957—?

A. No sir.

Q. —beginning in 1945, were you required to take it?

A. No sir.

Q. But you did take it in 1957?

A. In 1957.

Q. And you were accepted and passed?

A. That's right.

Q. Was it the same Registrar both times?

A. Same Registrar.

Q. Same person?

A. Same person.

Q. Do you know who that was?

A. On my certificate it said, "Mrs. Winnice P. Clements".

Q. Well, do you know that the person who gave you the test was Mrs. Clements?

A. That's right.

Q. It really doesn't matter, but do you know that of your own knowledge?

[fol. 924] A. Yes sir.
Q. You do know it was Mrs. Clements?
A. Yes sir.
Q. Were you alone at the time?

The Witness: At the time of—?
Mr. Kron: 1961.

A. Yes sir, I was alone.
Q. You were alone. Was there anyone else in the office?
A. No one in the office then.

Mr. Kron: No further questions.
Mr. Ross: That's all. Thank you, Mr. Morgan.

Witness excused.

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[fol. 925]

PLAINTIFF'S EXHIBIT No. 23C

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF MRS. T. ELLA REAVES, taken at the behest of and on behalf of Plaintiff; on January 21, 1963, in the Webster Parish Courthouse, Minden, Louisiana.

[fol. 926] STIPULATION

It is stipulated by and between Counsel for the Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except

the swearing of the witness, including the signature of the witness.

Counsel, however, reserving the right to object to the relevancy and materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

---

MRS. T. ELLA REAVES, witness called on direct examination at the instance of and on behalf of the Plaintiff herein; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. Would you tell us your name?
A. I am Mrs. T. Ella Reaves.
Q. Are you a negro?
A. I am.
Q. Where do you live?
A. I live at 416 Frazier, Minden, Louisiana; Webster Parish.
Q. How long have you lived in Webster Parish?
A. I've been in Webster all of my life.
Q. Do you own your own home?
A. I do.
[fol. 927] Q. How long have you owned it?
A. I've owned it since 1943, about 20 years maybe.
Q. You were born in Webster Parish?
A. I was born in Dubberly, Louisiana, in Webster Parish.
Q. And when were you born?
A. In 1908, October 11th.
Q. Are you married?
A. I am a widow, I've been married.
Q. How many children do you have?
A. I have two sons.
Q. How much education have you had?
A. I finished Webster High School, and I took one extra course in teacher-training; I got a BS Degree from Grambling College. I've done graduate work at Boulder, Colorado.

Q. What sort of work do you do?

A. I teach elementary education, third grade.

Q. How long have you been teaching?

A. I've been teaching approximately—about thirty years.

Q. Elementary school all that time?

A. I taught the first through seven grades for 19 years, then I came to Minden School and I taught the eighth grade one year; then two years in the first grade, then I was moved to the third grade, which I'm teaching.

Q. Did you ever try to register in Webster Parish to vote?

A. I did.

[fol. 928] Q. When was the first time?

A. The first time was back in the '40's. I don't recall the date, but it should have been around 1943, somewhere in there.

Q. And you became registered?

A. I did, I became a registered voter.

Q. And how long were you a registered voter?

A. I had done that some 2 or 3 times successfully, and I think '54 ended the period of my registration, I think the books were—

Q. Now, that I think would have been '52 or '53?

A. Well, '52 or somewhere right along there, or '53; it was right in there.

Q. And what happened the next time you went up to register?

A. It was around '56, I believe, when I went back, or '57 one, that I tried again. That was after they came to this new courthouse, I believe it was, for the first time I've ever been turned down; and I came to register and went in the office, and I was handed a card to fill as usual, and that was the only thing I had ever done, was to fill the card. I filled the card, and after filling the card, she reached underneath and pulled a leaf from the constitution and—

Q. This was torn out of the book?

A. It was torn out of the book—and she asked me to read it. So, I read it silently, not knowing that she was going to take it and ask me to interpret it, but she did. She gave [fol. 929] me about as much time as she thought it took for a person to read it, and she reached and pulled it off, and said: "Now, what did you read?"

So, I tried to recall some of the things that were on this; it was on the grand and petit juries. I began to tell her what I gathered from it; I found that there were to be 12 jurors on the—the constitution provides for 12 jurors to be on the courts; and then there was another kind of jury—

Q. Then, did you tell her this?

A. I did.

Q. And what did she say?

A. She said that wasn't enough, and I said; "I beg your pardon?" She said, "That's not enough, go and come again." So, I thanked her, and smiled and left out.

Q. Could you identify the section that you had to read?

A. I think I can.

Q. Would you look through here and see if you can find it anywhere in here?

A. Yes. Article-7 in Section-14, I believe that is the one.

Q. Did you have to read the whole section?

A. Seems to me like I started to reading down here with it says, "All cases—", and then read down to the end.

Q. And then you left?

A. I smiled and—

Q. And then you left?

[fol. 930] A. That's right.

Q. And have you been back since then?

A. I have.

Q. When?

A. I became a registered voter in '61; January.

Q. When you became registered in 1961, did you have to interpret the constitution?

A. I did. I don't recall the one that she gave me first—I had to read two sections—and she said that was not enough; and I asked her then, "Please, may I have another chance, inasmuch as I am a working lady and my time is very limited?" So, she said, "It won't be the same one." I told her that was quite all right, just to give me another chance. So, she pulled another leaf and I read it, and that was on taxation, and she accepted it.

Mr. Ross: No further questions.

Cross examination.

By Mr. Kron:

Q. Had you come back between 1957 and 1961?

A. I did.

Q. How many times?

A. I came back, oh, half-a-dozen times maybe, but I never did get on the inside again.

Q. Never got on the inside?

[fol. 931] A. Never did, I would get up to the door and they would say, "Time is out."

Q. This is because there was a line?

A. Had a line. Well, the one time it was just maybe 2 or 3 of us on the outside.

Q. You were never actually refused during that period?

A. No, I never did, I just didn't get back inside; by the time it would get to me, the time would be out every time, and I never did get on the inside again.

Q. You're presently registered to vote?

A. I am.

Q. And you have voted during these last few elections since 1961?

A. I haven't.

Q. There have been no elections?

A. There have been one or two locally, but I haven't registered, I haven't been.

Q. You haven't voted?

A. No, I haven't voted, I'm sorry.

Q. I see. I don't know that it's important, but it is interesting; why not?

A. Somehow I'd be caught off in meetings, and it just was at the wrong time it seemed like, I never did get around to going; working late, every time it looked like I would be caught off with something else and just didn't have time to [fol. 932] get there before the polls closed, and that was the only reason.

Q. How many elections has there been since 1961?

A. Well, they've had one I know.

Q. What was it about?

A. On the school board office.

Q. School board, huh?

A. That's right. Seems there was another, but I don't recall right now.

Q. Any other local officials?

A. Well, my memory don't pick it up right now.

Q. Federal officials?

A. It must have been local, now.

Q. Was there an election this past fall for the United States Senator and your Congressman from this district?

A. It was.

Q. Did you vote in that election?

A. No, I didn't.

Q. What day was that election on?

A. I don't recall it, I really don't recall that day.

Q. Would it refresh your memory if I suggested it was on a Saturday?

A. I don't know.

Q. Do you teach school on Saturday?

A. I don't.

[fol. 933] Q. That's your holiday, that's your day off?

A. That's the only—my only day off.

Q. I see. Your meetings on that day lasted all of the day?

A. Well, it might not have been a meeting on a Saturday, but I probably was involved in something else that—

Q. More important than voting?

A. That's right.

Q. I see. When is the last time you did vote?

A. Oh, back in '54 I believe, back there somewhere when the—it has been quite some time.

Q. Actually, then, in '54, that must have been about 3 years before you were refused a reregistration?

A. That's right, sir, somewhere in there.

Q. Were there any elections during that 3 year period between 1954 and 1957?

A. I wasn't a registered voter in '57, that's the time they—

Q. Well, were there any elections between '54 and '56?

A. I was trying to think, it was a President that I voted for then, and I was trying to think who that was. It must

have been Eisenhower, but I—I don't think I voted; I didn't.

Q. Since 1961, then, there has been, to your memory, an election for United States Senator and Congressman; there has been another election for a school board member?

A. That's right.

Q. Has there been any bond issue election, tax election?

A. Not in my area that I can recall.

[fol. 934] Q. I see—but to your personal knowledge, at least two elections?

A. That's right.

Q. Involving the election of a school board member, and you're a school teacher?

A. That's right.

Q. And your United States Senator and your Congressman?

A. That's right.

Q. And you did not vote?

A. No, I didn't.

Q. You had other more important things to do?

A. That's right.

Mr. Kron: All right. That's all.

Mr. Ross: That's all, Mrs. Reaves.

Witness excused.

[fol. 935]

PLAINTIFF'S EXHIBIT No. 23D

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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Deposition of DR. CLYDE W. SIMS, taken at the instance of and on behalf of Plaintiff; January 21, 1963, in Minden, Louisiana.

[fol. 936] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness. Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

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DR. CLYDE W. SIMS, witness called on direct examination at the instance of and on behalf of the Plaintiff; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. What is your name?
A. Dr. Clyde Ware Sims.

Q. Are you a negro?
A. That's right.
Q. Where do you live?
A. 114 Talton Street, Minden, Louisiana.
Q. Is that in Webster Parish?
A. Webster Parish.
Q. How long have you lived in this parish?
A. Since 1948.
[fol. 937] Q. Do you own your own home?
A. I do.
Q. How long?
A. Since 1943, approximately 20 years.
Q. Where were you born?
A. I was born in Shreveport, Louisiana, in Caddo Parish.
Q. When?
A. July 10, 1903.
Q. How much education have you had?
A. Well, I finished Central High School in Shreveport, Louisiana, then I went to Wilberforce University, Wilberforce, Ohio, and received my Bachelor of Science Degree. After leaving there I went to Meharry Medical College in 1928, and in 1932 I received my Doctor of Dental Surgery Degree from Meharry Medical College.
Q. And you're a dentist now, is that correct?
A. I am a dentist now.
Q. And you've been a dentist ever since you got out of college?
A. That's right.
Q. Were you in the Service at all?
A. I was not.
Q. When was the first time you tried to register in Webster Parish?
A. Well, I registered in 1950.
Q. Did you ever have any trouble registering after that?
[fol. 938] A. And then I registered again in 1954, and in 1957 I had trouble.
Q. What happened then?
A. Well, when I went into the office, Mrs. Clements gave me a book—it was a ragged book—and told me to read a passage which I guess started about midway of the page, and told me to read it, and I read it over twice.

Q. To yourself?

A. That's right. Then she took the book and told me to interpret it; and I told her that in order to interpret it like it should be, I should read the preceding of that. She said, "Well, you can come back; do you want to come back?"—and I told her, I said: "Now, I have registered before." She said, "Well, you can come back;" said, "Come back;" and I left.

Q. Did you go back?

A. Well, I went back in 1960, and—

Q. Was this still in the old period or the new period?

A. In the old period—and she gave me something to read and told me to explain it, and I explained it, and I passed the test then.

Q. The time that you were turned down, do you remember what that was about, what you had to read?

A. I really don't.

Q. And you are a registered voter now?

A. I am not registered now.

[fol. 939] Q. Oh, you are not.

A. No.

Mr. Ross: I have no further questions.

Cross examination.

By Mr. Kron:

Q. Why are you not registered now, Doctor?

A. I haven't been back to.

Q. Have not been back since the new registration began?

A. That's right.

Q. Of your own knowledge, do you know whether there were any whites being refused registration because of failure to properly interpret the constitution during that same period, between 195—

The Witness: Do I know of any?

Mr. Kron: Yes sir.

A. I do not.

Q. Of your own knowledge, you do not?

A. I do not, that's right.

Q. But you would not say that there were not other people, including whites, who were being refused registration during the period 1957 to 1960?

A. You said that I was not saying it?

Q. You could not say—

A. Could not say?

Q. —that there were not others, including whites, who [fols. 940-4] were being refused registration for the same reason, during 1957 to 1960?

The Witness: What are you saying, now?

Mr. Ross: Excuse me. I don't see how he could say whether they were or not; he said he didn't know of any, and that I think takes care of it.

Mr. Kron: Do you want this on the record, this argument about it?

Mr. Ross: Yes.

Mr. Kron: Well, I simply take the view that we are being left with the presumption here that this was a pattern which applied only to negroes; and no effort or no questions have been asked with respect to any others, and I simply wanted to know from this witness—his testimony leaves the impression that it was a pattern, and I was just wondering if he knew both sides of the pattern, that's all.

Mr. Dunbaugh: Well, Mr. Kron, I think the record will show that we noticed the deposition of the Registrar in Shreveport some months back and she refused to testify; she could have testified then in reference to this.

[fol. 945] Mr. Kron: Very true, but by the same token, being on cross examination I simply asked this witness if he knew of any others besides himself—

Mr. Ross: He said he didn't.

By Mr. Kron:

Q. Well, that's all right. You don't know of any other persons, negro or white, who were turned down because of this?

A. Well, now I would have had to be in the office to really tell whether they were turned down or not.

Q. So, you actually don't know of anyone, other than yourself—

A. I could hear of some that were turned down, that said they were turned down, but now I wouldn't know unless I was in the office and saw them turned down.

Q. That's correct—but the ones you heard of were only the negroes involved?

A. What's that?

Q. The ones you heard about were only the negroes involved?

A. That's right.

Q. OK. You heard of no white person having been turned down?

A. I have not.

Q. All right. Why haven't you registered since '61?

A. I haven't been in because I had trouble before, and it's embarrassing to go in, feeling that you're qualified and all, and are turned down; it's really embarrassing.

[fol. 946] Q. Would you happen to know that there is now in existence a new type of objective standard test being given?

A. I do.

Q. Do you feel you would be qualified to pass that test?

A. That's right.

Q. Do you know that that test is in writing, and that a record of that test is being kept in the Registrar's office, under the law?

The Witness: Of that test is kept in the office?

Mr. Kron: Yes sir.

A. That's right, I heard that they had a new test in the office.

Q. And you have not made application with that new type of test?

A. I have not.

Q. All right. Do you also understand that in this new procedure, that that test is being given indiscriminately to each and every person, regardless of color, who comes into the Registrar's office?

The Witness: You say, do I know that it is?

Mr. Kron: Yes.

A. I do not.

Q. In the publicity involving this new test, did you understand from that, that this test was to be given to everyone?

The Witness: That it was to be given to everyone?

Mr. Kron: Yes.

A. I heard that they had a new test. Now, I don't know [fol. 947] whether they're going to give it to everyone or what, but they have a new test.

(Reporter's Note: This witness excused at this point, and later recalled for further cross examination by Counsel for Defendants, to-wit:)

By Mr. Kron:

Q. Dr. Sims, when you were on the stand before, I neglected to ask you; in 1957, when you first had trouble, actually when you were denied registration; did you actually give an attempted interpretation of the section that was handed to you?

A. I did not.

Q. So that actually you were not refused for failing to properly interpret the section, were you?

A. I told her why that I couldn't interpret it.

Q. Good, tell me why, please?

A. Because I would have had to read what preceded that in order to interpret what I read.

Q. But you did not actually attempt an interpretation of what you read?

A. I did not.

Q. All right. You refused to make that attempt?

A. That's right.

Q. And you voluntarily walked out of the Registrar's office?

A. She told me to—

Q. To come back?

[fol. 948] A. That I could come back, to come back, and I did.

Mr. Kron: All right; that's all.

Redirect examination.

By Mr. Ross:

Q. I would like to ask you one thing. Did she allow you to read the preceding part?

A. No, she just told me to come back. She had the book then, and she just said, "You can come back."

Mr. Kron: May I see the book please? Did the Doctor identify the section?

Mr. Ross: I don't believe.

Recross examination.

By Mr. Kron:

Q. What was that section, do you recall what section that was?

A. I really don't. After I read it and—

Q. Do you think you could identify that section in here?

A. No, I wouldn't attempt to; but after reading it and then mentioning—

Q. You don't remember anything about the content or the subject matter of the section?

A. At this time I really don't.

Q. Whether it was taxation—

A. I really don't.

Q. —or legislative action?

A. No, I really don't.

[fol. 949] Q. You don't know?

A. That's right.

Q. But you actually didn't give an attempted interpretation?

A. I did not.

Mr. Kron: All right; that's all.

Mr. Ross: Thank you, Doctor, that's all.

Witness excused.

[fol. 950]

PLAINTIFF'S EXHIBIT No. 24A

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 2,548

UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

DEPOSITION OF MRS. HELEN BILLINGS, taken at the instance of and on behalf of Plaintiff; January 22, 1963, in the United States District Courtroom, Post Office Building, Monroe, Louisiana.

[fol. 951] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

MRS. HELEN BILLINGS, witness called on direct examination at the instance of and on behalf of Plaintiff herein; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. State your name, please?
A. My name is Helen Billings.

Q. Are you a negro?
A. Yes.
Q. Where do you live?
A. I live at 601 Goldman Avenue.
Q. Is that in Monroe?
A. Monroe.
Q. In Ouachita Parish?
A. Ouachita Parish.
[fol. 952] Q. How long have you lived in Ouachita Parish?
A. I been living in Ouachita Parish since 1938.
Q. Are you married?
A. Yes, I am.
Q. Do you and your husband own your own home?
A. Yes, we do.
Q. How long have you owned your home?
A. We started buying it in 1942.
Q. Where were you born?
A. I was born in Hope, Arkansas, Hempstead County.
Q. When was that?
A. In 1918, April 27th.
Q. How much schooling have you had?
A. High school education.

Mr. Korn: I didn't hear you.

A. A high school education, first through twelfth grades.
Q. What sort of work do you do now?
A. I'm a beautician.
Q. Do you run your own shop?
A. I do.
Q. Have you ever been arrested?
A. No, I hayen't.
Q. When was the first time you tried to register to vote in this parish?
A. According to their card it was in 1956, but until they [fol. 953] showed me the card I didn't really remember the year, but it was 1956 on it.
Q. You were registered to vote at one time, is that correct?
A. Uh huh, I was registered and voted several times.
Q. Was that before 1956?
A. No, not before, that was my first time to register.

Q. I see. And after you were registered and voted, did you have an occasion to try to register again?

A. Yes, after I was challenged.

Q. And when were you challenged?

A. I don't remember the year, because I don't have any record of it.

Q. And when you went, you tried to get back on the rolls, is that correct; you tried to get back on?

A. Yes sir, I met my challenge; I had so many days to appear, and I went before the time was over.

Q. And what happened at that time?

A. Well, the lady told me that she couldn't find anything wrong with the card, and so they put me back on that time.

Q. And did you vote after that?

A. I think I voted one time, but I can't remember what it was for.

Mr. Kron: When were you put back on the rolls?

A. When I was put back on was at the same time that I was challenged.

[fol. 954] Mr. Kron: Shortly after that?

A. Uh huh. (Affirmative.)

Mr. Kron: All right.

By Mr. Ross:

Q. Did you have to register at any other time after that?

A. No, no more than when I got the second challenge.

Q. You were challenged again, is that correct?

A. Uh huh. (Affirmative.)

Q. How long after the first time was that?

A. It was right after I voted the next time.

Q. And what did you do about that?

A. Well, I had to go back down, and that was the time that everybody was taken off; and I had to—you know, stand in line until my time come to get to the Registrar.

Q. Did you get into the office?

A. Yes, I finally got in.

Q. And what happened when you were in there?

A. Well, I asked her what was wrong, but that time she

said, "Nothing, register over to make sure it's nothing wrong;" so that's what I tried to do.

Q. And when you tried, in what way did you try, what did you have to do?

A. Well, at that time I had to refill the card, and after I refilled the card, well she gave me a card; and I read this card, the contents of this card, and she asked me what it [fol. 955] meant; and I told her what I thought it meant, and she said what I was saying was right, but it wasn't the way she wanted me to say it.

Q. And what did you do then?

A. Well, I left, and then I turned around and went back. She told me to go and study it again, and I left; and I turned around and I asked her if I studied and came back, would she ask me the same question, and she said, "Most likely, no;" and I just said, "I thought so," and I left.

Q. Now, is this your handwriting?

A. Yes.

Q. And you filled out this card?

A. Yes, I filled that card out.

Mr. Dunbaugh: We will mark that as P-11 for identification.

By Mr. Ross:

Q. How did you happen to get this card that she asked you to read?

A. She gave it to me. She reached under the desk and she got one, and she looked at it and she put that one back; and she got another one, and she gave it to me.

Q. That was the only one you had?

A. Uh huh, that was the only one.

Q. Do you think you could identify it if you looked through here for it?

[fol. 956] A. If it's in there—maybe.

Q. Would you give it a try?

A. This one and this one seem to be the same—it's Article-1, Section-10--but it doesn't exactly read like—you know, altogether like the one that she had down there, because it doesn't have some of the things in it that I read, but it was speaking of—

Q. Article-1, Section-10, you believe is the one—
A. Uh huh, speaking of—
Q. Something like that, then?
A. Yes, it was something like this, because it was speaking of imports and exports.
Q. And that was the last time that you went up to the Registrar's office?
A. Yes, I haven't tried since then.

Mr. Ross: I have no further questions.

Cross examination.

By Mr. Kron:

Q. You identified this card, or a photostatic copy of the card, which is marked P-11, as being in your handwriting. Now, is this the application which was accepted when you did register? It's dated August 29, 1956.
A. Uh huh. This is the application of the first registration of me in the State of Louisiana, of ever being a registered voter.
[fol. 957] Q. I see. They put you on the registration rolls at that time?
A. Uh huh. (Affirmative.)

The Reporter: The answer was yes?
The Witness: Yes.

Q. Are there any errors on that application?
A. Well, now when I asked the lady where the errors—if it was anything wrong with the card, she took the card and looked at it; and said she didn't see anything wrong with it, and she didn't understand why I was off, and then later they challenged me again.
Q. But you testified that this is your first application?
A. That's my first time.
Q. The first time you ever tried to register in Louisiana?
A. Yes sir.
Q. All right. Now, I circled with pencil the answer to a question here, which question reads: "I am not now registered as a voter in any other Ward or Precinct of this State, except:"—and I have circled this 3-8. Is that a correct answer?

A. That was the precinct and ward numbers.

Q. Well, is that a correct answer to the question?

Mr. Dunbaugh: Mr. Kron, I would like to object to the question, because I don't think that the applicant knows what standards the Registrar used.

[fol. 958] Mr. Kron: That's exactly what I'm trying to show, that she doesn't know what she is talking about; with respect to this card, and lots of other things she is testifying to.

I am going to agree that she may sincerely believe what she says to be correct, but that in truth and in fact, her memory is not infallible and impeccable; and that she actually doesn't understand or know what she is talking about.

Q. Now, is that a correct answer to the question; if that is the first time you ever registered in this state, is that a correct answer?

A. Well, you see, they had us in wards and precincts, and we were told that the ward was 3 and the precinct was 8; and that's what it says, "I am not a registered—"—"I am now registered as a voter in any other Ward or Precinct of this State, except Ward-3 and Precinct-8."

Q. But if this was your first application, the fact is that you were not registered in any precinct, were you?

A. Well, wonder why she didn't tell me that when I asked her the question?

Q. Well, the point I'm trying to make is: Are you sure, [fol. 959] in your own knowledge—are you positive that this card you have identified here today as P-11, is the first application you ever filed for registration in the State of Louisiana?

A. It has to be, because it was in '56, and that was the first time I registered.

Q. So that admittedly, if this was your first application, then the answer to the question which I have circled on here is wrong, is it not?

A. I really don't know, because she said it was right, and I thought what she said was it.

Q. Does the Registrar's signature appear on this card?

A. I don't think it appeared on any of them.

Q. You don't think so?

A. No sir.

Q. You don't know that under the—

A. She didn't sign any of mine.

Q. Didn't sign them; you're positive of that?

A. She didn't sign them—not before me, she didn't sign them.

Q. You don't know that in order to be registered in Louisiana, that if your application is accepted, the Registrar or the Deputy Registrar must sign your application to approve it as accepted; you don't know that?

A. I see it's down there, but she didn't say—she said, "That will be all."

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Mr. Kron: I see.

[fol. 960] A. I mean, when she told me that, that was all I was interested in, because I hadn't ever registered before; and she said that all the information was correct.

Q. She said that?

A. That's what she said; and then when she challenged me and I had to go back, she said that she didn't see anything wrong, and put me back on the books. Now, that's what she told me.

Q. And you only made one application before you were challenged?

A. For this time.

Q. For this time, but I mean, then, you made no further applications of any kind before you were challenged the first time?

A. I don't guess I understand you.

Q. How many times did you have to go to the registration office to get registered, when you first went to register?

A. I went one time the first time.

Q. One time; what year was that?

A. 1956.

Q. In 1956?

A. Yes.

Q. You didn't go at any other time during 1956?

A. No, because she didn't challenge me in '56, but I don't remember the year.

Q. I see. Your memory could be quite mixed up about it, it's been a long time?

[fol. 961] A. It has been a long time.

Q. Are you sure that this card is the one that the Registrar accepted your application on?

A. Well, all I know is, that's my handwriting. Now, whether she accepted it or not—

Q. And anything else about it, you really don't know or understand, do you?

A. It's my handwriting.

Q. But I say: Anything else about it, you don't know or understand about the Louisiana Law?

A. I don't know how to answer that question.

Q. Well, do you understand it, do you know what they're supposed to do when your application is accepted?

A. I understand—you said that she was supposed to sign it, and I see here where it says "Deputy"—

Q. I asked you if you knew that?

A. Not until you showed it to me, because when she told me to sign my name, to put my signature here, she said; "That will be all."

Q. You're positive that what you're saying she told you, that you are correct about?

A. She said, "That will be all," when I put my name down there.

Q. I see—and she registered you from this application?

A. And I voted.

Q. You're positive of that, that there was no other ap-

[fol. 962] plication of any kind?

A. No, I—I didn't fill one.

Q. Now, by the same token, you are positive that the interpretations you gave to the constitutional questions were correct?

A. No, I'm not sure, because she said—

Q. You're not sure?

A. No, because she said what I was saying was right, but it wasn't like she wanted me to say it; so, you know, I didn't know what to think then.

Q. Now, when you were removed from the rolls the second time, what was the reason the Registrar gave you for that removal?

A. She didn't give me a reason, she just told me to register over.

Q. Uh huh, and you registered over, and she accepted that too?

A. Yes—

Q. And then you were removed a third time?

A. No, she didn't accept me the second time, because, see, she said that I didn't answer the question correctly.

Q. That was the third time, wasn't it?

A. No, I didn't go up there but twice.

Q. Well, now let's go over this again, let's see how good your memory really is. You went the first time in 1956?

A. In 1956.

Q. Filled out an application and you were registered?

A. Yes.

[fol. 963] Q. You voted?

A. Yes.

Q. Then you were removed from the rolls by a challenge?

A. Yes.

Q. And you said that you went back shortly after you were removed, and reregistered and was accepted again?

A. No, I didn't reregister the first—you're talking about the first time; are you speaking of the first time, this first card?

Q. I don't know whether this is the first card or not; do you?

A. That's the '56 card, that's the first card.

Q. This is the fifth or sixth card, this P-11?

Mr. Ross: '56; 1956.

A. Fifty-six ('56).

Q. 1956?

A. '56.

Q. All right. That's the first card?

A. That's the time when there was a long line, too.

Q. Well, the line is not important. Let's go over this thing again. In 1956 you went and registered and your application was accepted, is that correct?

A. That application was accepted.

Q. This application was accepted?

A. Uh huh. (Affirmative)

Q. When were you removed by challenge?

[fol. 964] A. I told you I don't remember the year.

Q. All right—but you were removed by challenge?

A. That's right.

Q. Now, how long after you were removed by challenge did you go back again?

A. Well, this letter stated for me to come within ten days, and I went—I don't know what day it was, what number of days, but I went back; and when I went there, well that's when, you know, it was a lot of folks, and I didn't stay the first time, I left; but it was in the same day, and I came back and I stayed that evening—it was in the afternoon—at first it was in the morning, and I stayed that afternoon until I got in to her.

Q. And then what happened?

A. Well, that's when she said she couldn't see anything wrong with the card, that's what she told me.

Q. And put you back on the rolls?

A. And put me back on the rolls, without me registering again.

Q. All right—and you voted again after that?

A. I voted one more time I'm sure.

Q. And then you said you were taken off of the rolls a second time?

A. A second time.

Q. Now, when was that?

A. Well, just like I don't remember the date of the other [fol. 965] time, I don't remember that time.

Q. Was it a year afterward?

A. I really don't know.

Q. Two years?

A. I can't remember.

Q. You can't remember—but you do remember that this is the first card, without any doubt; even though the Registrar's name is not on the card and there is a mistake in that card?

A. Yes sir.

Q. You're positive of that?

A. It's supposed to be the first one.

Q. Supposed to be?

A. Yes.

Q. Now, the third time you went in and tried to register for the second time, when was that?

A. I don't know, but it was—you know, it wasn't a long time afterwards, it was—it wasn't too long, but I just can't remember.

Q. How did you find out that you had been challenged the second time?

A. I received a letter each time.

Q. So you had a second letter, and when you got that letter you went back again?

A. That's right.

Q. This time you were told you were off the rolls?

[fol. 966] A. That's right.

Q. And you were given a card to fill out, and given this test?

A. That's right.

Q. And they told you that you had failed the test?

A. She told me what I was saying was right, but it wasn't the way she wanted me to say it.

Q. All right. Now, approximately how long ago has that been?

A. Oh, well, it was just before they elected the Mayor.

Q. When was that?

A. I don't know what year that was in, I think he's served about—

Q. All right. You have not been back again?

A. No, I haven't.

Q. All right. You feel you were unjustly treated at that time?

A. Well, yes, because—the first time is when I felt like I was unjustly treated, mistreated; the first time.

Q. Why?

A. Because she said she couldn't find anything wrong with my card.

Mr. Kron: I see.

A. I mean, if there had been a mistake, it looks like she would have pointed it out to me, but she didn't.

Q. Looks like she would?

A. Uh huh. (Affirmative)

Q. You don't know what the law says about that, do you?

[fol. 967] A. Well, I haven't studied up on it.

**Q. I understand, but you just feel like she should have pointed out the error?**

**A. It seems that if you know, you should tell me—if I don't know.**

**Q. That's the way you feel about it?**

**A. That's right.**

**Q. Whether that's the law or not, that's the way you feel about it?**

**A. That's the way I feel about it.**

**Q. All right. Now, how many years has it been since you've tried to register?**

**A. I keep telling you I can't remember.**

Q. You mean you can't tell me whether it's 2 years, 3 years, 5 years?

A. No, because I can't remember when the last time was, because on dates—

Q. Your memory is pretty bad, isn't it?

A. On dates.

Q. On dates?

A. Uh huh. (Affirmative)

Q. Have you been reading the papers recently?

A. Oh, sometimes.

Q. Sometimes. Have you read or heard anything about the new kind of test that's being given instead of this old [fol. 968] test that you thought was unfair?

A. I've sat in meetings on that, I know about the new test.

Q. You know about it?

A. I have—you know what I mean, I have had an opportunity to see the new card, if it's what you're talking about.

Q. Good. You've seen the questions and the answers?

A. I've seen the questions.

Q. And do you know that all you have to do is circle the correct answer out of three possible answers?

A. No, I don't exactly know everything you do, but they just passed the cards around and told us to—you know, to look at them.

Q. And study them?

A. Uh huh, and we had kind of a little test on where you fill it in.

Q. Who held this meeting?
A. Ineta Pierce.
Q. Who?
A. It was Ineta Pierce passing the cards out.
Q. Pierce?
A. Uh huh. (Affirmative)
Q. Was this at a church meeting?
A. No.
Q. NAACP meeting?
A. No.
[fol. 969] Q. Well, who called the meeting?
A. It wasn't a called meeting, it was our beauticians' club meeting, and she dropped in.
Q. I see—and held this meeting over these new test cards?
A. She just asked if she could, she asked for permission to pass the cards out; to let us get familiar with them, because they're trying to get everybody to become a registered voter.
Q. Good. Now, you have a set of those cards?
A. No.
Q. But you have seen them—
A. I have.
Q. —and gone over them?
A. I have.
Q. Do you think you could pass that examination?
A. I think I could.
Q. Have you tried?
A. No, I haven't.
Q. Why not?
A. Well, I knew that the questions were still involved, and I felt like I might not answer like she wanted me to.
Q. Like she wanted you to?
A. Uh huh. (Affirmative)
Q. Even though you knew you had the correct answers on those cards?
A. No, I'm speaking of these cards.
[fol. 970] Q. Those cards don't—is it your understanding that those cards you're referring to in that book are still being used?

A. Yes, they're still being used. I haven't been down there that I can tell you—for me telling you, but everybody else tells me that they are still being used.

Q. These constitutional interpretation cards are still being used?

A. That's what I am told, because I have not been back down there.

Q. I understand. Now, let's go back to that interpretation test. What is a Republican form of government?

The Witness: A Republican form of government?

Mr. Kron: Uh huh. (Affirmative)

A. I imagine it's just the same as a Democratic form, it's just one—

Q. Good. Now, what is a Democratic form of government?

A. I guess it's just under the Democratic Party. I imagine they're the same, but one is Democratic and the other is a Republican.

Q. And that's a form of government, the Democrats and the Republicans; is that right?

A. That's what I think.

Q. How did you get to come here today?

A. By subpoena.

Q. Did you want to come?

[fol. 971] A. No, I didn't want to come.

Q. Had you made any complaint to anyone about this?

The Witness: About what?

Mr. Kron: About this voting thing.

A. No, I haven't made any complaint.

Q. Well, how did they know to contact you to get you here?

A. That was the question that I asked.

Q. Huh?

A. That was the question that I asked when I was called by telephone.

Q. What question?

A. Why did they—how did they get my name to come down here. I still don't know.

Q. Do you feel that if you gave the new test a little study, that you could pass it and become registered again?

A. Yes, if I could be exposed to these laws.

Q. You haven't read the papers, then, in the last 5 or 6 months, have you?

A. Oh, I read the papers, but I don't really just read the whole paper, everything in it, because I don't—

Q. You haven't paid attention, then, or haven't seen the articles which say that that old test is not being used any more?

A. No, I really haven't.

Q. And if I told you that that test is not being used any [fol. 972] more, would you believe that to be correct?

A. Well, I would believe, I guess, just like I—you know, there is nothing else for me to believe, I would feel like you were telling me the truth.

Q. All right. I tell you that that test is no longer being used. Now, do you think, without that old test, that you might be able to go down and register?

A. I do.

Q. Why haven't you taken the trouble to find out about these changes?

A. Well, it's just so many folks just have so much trouble, and I'm the type of person that whenever I can go around it, I just go around it.

Q. Actually, you're not too much interested, are you?

A. Oh, yes, I'm very interested in becoming a voter, I think any property owner should be a registered voter.

Q. Not interested enough to read the papers to find out what to do?

A. Well, you see, I didn't know all of that was in the papers. Of course, I know that sometimes they put some things in the papers about it, some of the articles and different things; but even if I had read it, I couldn't memorize it.

Q. Couldn't understand it?

A. You know, not to tell you all about it and everything.

Q. Couldn't understand it, couldn't understand what to do to get registered?

[fol. 973] A. If I read the part and it told me in plain words, I would have.

Mr. Kron: I see.

Mr. Dunbaugh: I think the question assumes that the newspapers have told people what the procedures are.

Mr. Kron: I think you all know that, you read it in the newspapers.

The Witness: What paper was it in?

Mr. Kron: All of the papers. I have no further questions.

Redirect examination.

By Mr. Dunbaugh:

Q. Mrs. Billings, when we first started out today, Mr. Ross asked you when you first registered to vote, and I believe you said you didn't recall the date, but that according to this card it was 1956; is that what you said?

A. That is—I am not sure of anything today, because—you know what I mean, sometimes you get all balled up; but all I know is, the first time I went down to the courthouse to register I registered; and I kept my slip of paper, this yellow slip for a long time, and this letter, but eventually I threw it away; and I can't remember the date, the exact date, but I am almost certain it was—that the first time I attempted to register was in 1956.

[fol. 974] Q. But your recollection of that date was due to your seeing this card, is that right?

A. Yes, when they first brought it to me.

Mr. Kron: Well, in all fairness to the witness—

Mr. Dunbaugh: Yes.

Mr. Kron: I'm not trying to ball her up. In all fairness, this card is not necessarily the first application, it could have been another application.

By Mr. Dunbaugh:

Q. You weren't shown all of your application cards, were you?

A. Well, no, actually—

Mr. Ross: She was left with the impression that—

The Witness: That that was my first one.

Mr. Ross: —that this was her first card.

Mr. Kron: But I don't want this record built on impressions—

Mr. Ross: Well, you gave her that impression.

Mr. Kron: —I want this record built on facts. No, I didn't at all, I asked her whether or not this was her first application, and she categorically said yes; when it's evident on the face of the paper that it is not.

The card has an error, it is not signed by the Registrar [fol. 975] and is not an official registration of the applicant—

Mr. Dunbaugh: I object to your conclusion that there is an error on it.

Mr. Kron: —so evidently there must have been another card, which I'm willing to concede.

Mr. Dunbaugh: I object to your conclusion that there is an error on it, because I don't see an error on it.

Mr. Kron: The error is where it is circled; you just read it. Anybody who understands the English language will have to admit that's an error.

Mr. Dunbaugh: Let's go off the record, I don't think anything is being accomplished here—

Mr. Kron: Well, we don't want you fellows to be testifying, because you don't know that of your own knowledge, and I don't—

Mr. Dunbaugh: Well, neither are you, Mr. Kron. Mr. Kron stated that that's an error, when in fact the Registrar of Ouachita Parish accepts that answer.

Mr. Kron: Well, I don't know that, and that would only be permissible to be testified to by the Registrar herself, [fol. 976] duly under oath.

Mr. Dunbaugh: Well, the same would be true of your conclusion that it's an error.

Mr. Kron: Of course, I'll say that anyone who reads— I'm not saying that it is an error, I'm saying that in any stretch of the imagination, in asking such a question; that the answer as given there is not responsive to the question.

Mr. Dunbaugh: OK. Well, that has nothing to do with this case anyway, and we're using up a lot of time.

Q. What I was driving at is this: That your understanding that this is your first application is from your having seen this application, of your having been shown this application?

A. That's right.

Q. You were not shown any additional applications?

A. No sir, and I have only filled two.

Q. You have filled out two?

A. I've filled two.

Q. So that really this could have been your second one?

A. It could have.

Q. The time that you failed?

A. Uh huh. (Affirmative)

The Reporter: What was your answer?

[fol. 977] A. It could have been, because, you see, I was under the impression that that was the first one, because it is the same card that I was shown twice—by two different people.

Redirect examination.

By Mr. Ross:

Q. Well, may I interject: Are you sure this is the card you were shown; I mean today you were shown it twice, and once before?

A. It's not the same card, but it's seemingly to me—I mean, the dates are the same on the cards. The other one was more of a picture-type photostatic copy, this look like a duplicate or something to me.

Q. But you did fill out the two cards?

A. I filled two cards.

Q. In what period of time were those two cards filled out, within the same year perhaps?

A. Yes, that was in the same year.

Q. Within a few months of each other?

A. I can't say that, because I don't know.

Q. But they both could have been in 1956?

A. No; no, they both wasn't in 1956, if that's the first card?

Q. If that's the first?

A. Yes. I voted more than one time, see, I voted several times—I mean, you know, several years, and then later I was challenged and they taken me off the books. Well, the [fol. 978] card that I filled—she didn't accept the second card, because she didn't accept the answer to these constitutional parts.

Mr. Kron: But that was actually the third time you were in the office?

A. No, I wasn't in the office but twice.

By Mr. Dunbaugh:

Q. All right. Now, you may be vague about some of these dates, but is there any doubt in your mind that you went in, that you read and that you explained the provisions that are in the constitution, and that you were told your explanation was wrong?

A. Yes, I know that happened.

Q. There is no doubt in your mind about that happening?

A. No.

Q. You may not recall exactly when it happened, but you know that it happened?

A. That's right, I can't recall the dates, but I know it happened.

Recross examination.

By Mr. Kron:

Q. And of your own knowledge, you don't actually know whether your answer was right or wrong?

A. Well, just—just going by what she said—I told her what I thought it meant, and she told me that what—this is her way of saying it; she said, "What you are saying is [fol. 979] right, but you are not saying it like I want you to."

Q. But of your own knowledge, you don't know whether your explanation was right or wrong?

A. Well, to my own knowledge, I felt like I was right.

Q. I see. All right; if you felt like you were right, then tell me what is the definition of a Republican form of government?

A. That was not my question anyway.

Q. Well, what was your question about?

A. It was something about exports and imports.

Q. All right. What is an export, and what is an import of produce?

A. An export means to send out; and import means to bring in.

Q. I see—and that constitutional provision talked about the export and import of produce?

A. And getting permission from the Congress.

Q. I see—and how do you get that permission from the Congress?

A. I don't know, I don't guess; because, you see, I wouldn't say it right, so it's no need of trying.

Q. I see. Your mind is closed on this issue, that you're going to be wrong regardless of what you say?

A. No, but everything I say I'm wrong; I couldn't remember the dates correctly—I told you that I couldn't remember dates, because, you know, some people just don't remember dates; you can remember incidents, but you can't remember dates.

[fol. 980] Mr. Kron: All right. I have no further questions.

Mr. Ross: Thank you, Mrs. Billings, that's all.

Witness excused.

[fol. 981]

PLAINTIFF'S EXHIBIT No. 24B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION
Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF MRS. RUBY LEE CYRUS, taken at the behest of and on behalf of Plaintiff; on January 22, 1963, in Monroe, Louisiana.

[fol. 982] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

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MRS. RUBY LEE CYRUS, witness called on direct examination at the instance of and on behalf of Plaintiff herein; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. Would you state your name, please?
A. Ruby Lee Cyrus.

Q. Are you a negro?
A. Yes, I am.
Q. Where do you live?
A. I live at 507 South Ninth Street in West Monroe, Louisiana.
Q. Is that in Ouachita Parish?
A. Yes, it is.
Q. How long have you lived in Ouachita Parish?
A. Thirty-two years.
[fol. 983] Q. Do you own your home?
A. I own my home, but at the present I'm renting.
Q. Where were you born?
A. I was born at Calhoun, Louisiana.
Q. When?
A. May 18, 1930.
Q. How much education have you had?
A. I have 15 hours on a Masters Degree.
Q. Where did you get your undergraduate degree?
A. At Grambling College.
Q. What sort work do you do?
A. I teach school.
Q. Where?
A. Swayze Elementary School.
Q. Do you teach all of the grades?
A. No, I teach the second grade, section-1.
Q. How long have you been teaching?
A. Five years.
Q. Have you ever been arrested?
A. I had a speeding ticket, that's all.
Q. Do you remember the first time you tried to register to vote?
A. Yes, I do.
Q. When was that?
A. That was in April, 1956, I think.
Q. Were you able to register?
[fol. 984] A. No, I wasn't.
Q. What happened?
A. I went in and I had a card, the ordinary card that you have to fill out in this parish to register; and I filled out the card, and then Mrs. Lucky gave me another card with part of the constitution on it to interpret.

She asked me if I could read, and I told her I could; and she told me to read it silently and tell her what I thought it meant, and that's what I did.

Q. Did you tell her what you thought it meant?

A. Yes, she gave me the article about a person—I don't know exactly which article it is, but it was about a person that could not testify against himself, and this is what I thought it meant:

That you could not testify against yourself, you must have a Judge and a jury in any capital offense; and I thought it meant that once you had been tried for a crime, you could not be tried the second time. She said that it was wrong, and told me to come back later.

Q. Did you go back again?

A. Yes, I went back five days later. I asked how quick could I come back; she told me I could come back in 24 hours, but I came back in five days.

Q. What happened at that time?

A. This time I was challenged also, and I was—she went [fol. 985] the same routine as before; I filled out a card, and when I filled out this card—if I had the constitution book I could show you the article that she gave me this time; and she gave me this article to read, and I told her what I thought it meant; and at this time Mr. John Feeback was in with her, and she said it wasn't right.

Then she gave me a part of the Louisiana Constitution, about the three departments of government in Louisiana; Judicial, Executive and the Legislative, and she asked me what did they mean, what was the purpose of each one of them; and I told her that the Judicial made the laws—the the Legislature made the laws and the Judicial saw that it was carried out; and she told me that that was wrong, and to come back later.

Q. Do you think you could identify what you were required to read?

A. Yes sir, I sure can if I see it.

Q. Well, would you look through here and see if you can find it?

A. This was the article that I was qualified to vote on, Article-3, Section-1, The Judicial Power of the Government,

and I explained that; that was the fifth time I had gone up.

Q. Well, I'm just referring to the two times you were just speaking about now.

A. Oh. This is the second time; Article-4, right here, what she had me to read the second time.

[fol. 986] Mr. Dunbaugh: I think the record should identify that more clearly, it could be Article-4 of anything.

A. The Constitution, Article-4: "The right of the people to be secure in their person, house, papers and effects—

Mr. Kron: Which constitution?

Mr. Ross: Let's go off the record, please.

(Colloquy of Counsel and Witness.)

Mr. Ross: All right, you may continue.

A. "The rights of the people to be secured in their personal house—

Mr. Kron: Just a minute. Start at the beginning, citing the article and section numbers so that it will be complete in the record.

A. The Constitution, Article-4: "The rights of the people to be secured in their persons, houses, papers and effects against unreasonable search and seizure shall not be violated; and no one shall issue, but upon probational cause, supported by oath or affirmintation, and particular described as the place to be searched and the person or thing to be seized."

I told her that I thought that nobody could just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what [fol. 987] they were to search and seize; and she told me that was wrong.

Q. Excuse me just a second. Before you said—?

A. This was the second time.

Q. Did you get more than one thing to read?

A. Yes sir, I did in the second one.

Q. The second time you were up there you got more than one thing to read?

A. Yes, I got two, and the third time that I went to her office I was supposed to have carried three witnesses, and I took two witnesses; and she wasn't in, she was out that particular day, so her assistant asked me if I had tried to register before, and I told her yes.

She asked me who had waited on me, and I told her Mrs. Lucky; and she told me to come back later, because Mrs. Lucky had been dealing with my case, so I didn't get a card or anything that particular time.

Q. Excuse me. Before you go on; are these the cards that you filled out the first two times you went up there? A. Yes, it is.

Q. Is that your handwriting?

A. Yes, it is. It's bad writing.

Mr. Ross: I would like to enter these in the record.

The Reporter: Shall I mark these P-1 and P-2?

Mr. Ross: Yes, that will be all right.

[fol. 988] (Exhibits so marked by the Reporter.)

Q. Well, after this last time that you've talked about, when Mrs. Lucky wasn't there, did you go to the office again?

A. Yes sir, I did, I went again; and this time I filled out a card, and I was challenged again.

Q. By "challenge" do you mean you had to interpret—

A. Interpret the constitution, tell what I thought it meant.

Q. When was this?

A. This was about a year later that I went back.

Mr. Kron: 1957?

A. Something like that, yes sir.

Q. And you had to explain—

A. The constitution then.

Q. And what did she say after you explained it?

A. Well, she said that it wasn't right, to keep trying, and to come back later, and I did.

Q. And when was the next time you went in?

A. Well, it was the time that I got registered, I think it must have been about 2 or 3 years ago that I went back.

Q. And at that time you also had to interpret?

A. Yes, I interpreted this one right over here about the Judge, Article-3, Section-1.

Q. Now, to go back to the first two times you tried again; how did you happen to get that particular section, or that particular card with the section typed on it?

[fol. 989] A. She passed it to me. It wasn't a selection of cards, she just—each time I went up she always passed a card. She had some in a little container on her desk, and she just passed a card; I didn't select a card, she passed me a card.

By Mr. Dunbaugh:

Q. Didn't you just tell us that she just passed you one card?

A. The first time she passed me one, the second time she gave me one card; and then after I told her what I thought that one meant, then she passed me another one, the second time; and that was the only time that I had two cards at one time, the rest of the time I had one card.

Mr. Dunbaugh: That's all.

Mr. Ross: I have no further questions.

Cross examination.

By Mr. Kron:

Q. You are registered now?

A. Yes, I am.

Q. When did you register?

A. It was about 2 or 3 years ago that I registered.

Q. Before 1961?

A. It might have been in 1961. I don't know exactly when I registered, but I have voted, I think, seven times; one I missed.

Q. All right. Now, then, in this would you read the Constitution Article-4, would you read this again for me?

[fol. 990] A. "The rights of the people to be secured in their persons, houses, papers and effects against unreasonable search and seizure shall not be violated; and no one shall issue, but upon probable causes, supposed by oath or affirmation, or particular described as the place to be searched and the person or things to be seized."

Q. Now, what is this word here, please?

A. Probably.

Q. Probably?

A. Yes sir.

Q. And you said "probational" a little while ago?

A. That was just an oversight.

Q. And it's probably or probable?

A. Probable.

Q. Probably?

A. Yes sir.

Q. All right. What does it mean?

A. Well, it means "can be or cannot be."

Q. I see. What is this word here?

A. "Supported" means to take care of.

Q. I see; "take care of." All right. What is this word here?

A. That means a written statement—

Q. I know, but how do you pronounce that word?

A. Formintation.

Q. Formintation; it's not affirmation?

[fol. 991] A. Affirmation.

Q. It's affirmation or formintation?

A. I'd say formintation.

Q. I see. Now, what is this word right here?

A. Searches.

Q. Searches?

A. That's right.

Q. That's plural?

A. Yes.

Q. It wouldn't be search as you said it a little while ago?

A. It's searches.

Q. Searches; good. Now, when you gave these answers to the interpretation request in 1956 and 1957, are you absolutely sure in your mind that your answers were categorically correct?

A. Well, in some parts I thought they were correct, and in some parts it was—it could have been a discrepance in it.

Q. You're not sure, are you?

A. No, I'm not sure of it.

Q. As a matter of fact, two years ago when you were registered you were asked to interpret Article-3, Section-1 of the Constitution; is that correct?

A. I'll have to look at it to be sure. Article-3, Section-1.

Q. Article-3, Section-1, relating to the judicial powers?

A. Yes sir.

[fol. 992] Q. Is that not the same identical section that you were asked to interpret back in 1956?

A. No, it's not.

Q. It is not?

A. No.

Q. You testified that the first time you went there in 1956, that you were asked to interpret Article-3, Section-1, of the constitution, relating to the judicial powers of the Government; is that correct or not?

The Witness: Article-3, Section-1?

Mr. Kron: Yes, you so testified.

A. I said that that was in—that I was challenged on this the fifth time.

Q. The fifth time?

A. Uh huh. (Affirmative)

Q. You were challenged on that the first time?

A. The fifth time, but not the first time.

Q. Not the first time. So that if you said in your testimony the first time you were asked about Article-3, Section-1, you were in error; is that correct?

A. Now, I didn't say that, I never had said—

Mr. Ross: Excuse me just a second, Mr. Kron. Can we go off the record, please?

Mr. Kron: Yes.

(Colloquy of Counsel.)

[fol. 993] Q. That was the fifth time?

A. Yes.

Q. So that if you said a few moments ago that the first time you went, you were asked to interpret Article-3, Section-1, relating to the judicial powers of the Government; then you were in error?

A. Yes, if I said it I was in error, because she did not ask me that.

Q. Now, you had been asked that before, and refused, on that same article, had you not?

A. No, I have never had the same article twice.

Q. You have never had it twice?

A. No, I have never had the same article twice.

Q. So, if you said you did, you were in error?

A. That's right.

Q. All right. Now, are you complaining—

A. No, I'm not.

Q. Wait, now. Are you complaining that at any time in the first three times—no, that's the first, second and fourth times, where you were refused registration—

A. I am not complaining.

Q. I would like to finish the question—where you were refused, that you had given a correct answer at any one of those times?

A. No.

[fol. 994] Q. You're not sure of that?

A. I am not confused or saying anything myself, because when I got registered to vote, I was through with it myself.

Q. The only point—I'm not trying to be mean with you, and the only point I'm trying to establish is why you are here?

A. I was subpoenaed to come here, that's why I'm here.

Q. I see. The Government is asking you to come here, and you have no real desire, because you have no complaint; is that correct?

A. I don't have any.

Q. As a matter of fact, the first, second and fourth times you went, you're not sure at all whether you properly interpreted the section given, or did not?

A. No, I'm not.

Q. So, you really have no complaint?

A. No, I don't.

Q. Now, who came to see you about this?

A. I really don't know who it was; in fact, he just told me he was a man who came to talk to me about registering, and he showed me my card; and he asked me what happened, and I told him just like I'm telling you all, and he asked me if I could tell it again if I was called upon.

I told him I would not like to, but if I had to I would. He said, "Well, you know if we subpoena you, you'll have to." I said, "Well, that's—that's all right."

[fol. 995] Q. And you were subpoenaed and had to come?

A. That's right.

Q. Now, you have been registered for two years?

A. That's right.

Q. I understand that you have voted seven times?

A. Approximately seven.

Q. You have performed your obligation of citizenship as a registered voter, and you have not beset upon; you have been treated fairly, just as everyone else, when you entered the polls to cast your ballot, isn't that correct?

A. Yes, we have.

Q. You have not been interfered with?

A. No, I haven't.

Q. Nor has any pressure been brought to bear upon you; you have been able to exercise that ballot with your own free expression of your will; is that true?

A. That's true.

Q. All right. And the only persons who are interfering with you in any way are the representatives of the Government?

A. Well, I don't see where they—I wouldn't say that they were interfering, but they did ask me to come up and testify.

Q. And you preferred not to?

A. I preferred not to.

Q. And you've been subpoenaed here?

A. Yes sir.

[fol. 996] Q. Just one more question. Did you or did you not have to take a written examination—

A. No.

Q. —to test your knowledge of the obligations of citizenship?

A. No, I came on before that time.
Q. That came on before?
A. Uh huh. (Affirmative)
Q. So that you are on the rolls without having had to take that test?
A. Yes, I am.

Mr. Kron: That's all.

Redirect examination.

By Mr. Ross:

Q. In 1956, the two times that you were asked about the constitution, did you think you had given a correct answer?

Mr. Kron: She has already testified she didn't know.

A. I don't know. I went back and studied this constitution, and I talked with some more people about this constitution and we looked up some words and things on this constitution; but I just don't know.
Q. And you were a student at the time?
A. Yes, I was a student at the time.
Q. Where?
A. At Grambling College, and I talked with Dr. Oliver, [fol. 997] one of the instructors at Grambling at that time.
Q. And you finally got registered in 1961, is that correct?
A. I don't know exactly what year it was.
Q. Well, around then?
A. Yes.
Q. About how long was that after the first time you tried to register?
A. About 4 or 5 years later.
Q. About how many elections do you suppose there are in a year in this parish?

The Witness: How many what?
Mr. Ross: Elections there are in a year.
Mr. Kron: She can only answer that if she knows of her own knowledge.

A. I don't know just how many—
Q. Well, make a guess?

Mr. Kron: No, no, I object to any guessing.

Q. Well, what you think, how many do you think—

Mr. Kron: No, I object to any thinking. The elections are a matter of record in the Secretary of State's Office in Louisiana, and her thinking has nothing to do with the facts; and I certainly object to that kind of question, it doesn't have a thing to do with the issues here.

[fol. 998] A. Well, we have had quite a few bond issues too, and I couldn't exactly say.

Q. But you weren't allowed to vote in any of those elections, is that right, between 1956 and 1961?

A. No, I wasn't a registered voter.

Mr. Kron: That's a good answer.

Mr. Ross: I have no further questions.

Recross examination.

By Mr. Kron:

Q. At the time you were attempting to register, you were a student in college?

A. That's right.

Q. You have now received your degree and you're working toward the acquisition of your Masters Degree?

A. That's right.

Q. Now, as an educated college person, I want to ask you: Did or did not your refusal to register actually inure to your benefit, by you having to go and look up and study these questions?

A. Well—

Q. Do you know a little bit more about those things now than you did before?

A. Yes, I do.

Mr. Kron: That's all.

Witness excused.

[fol. 999]

PLAINTIFF'S EXHIBIT No. 24C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION
Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff

versus

THE STATE OF LOUISIANA, et al., Defendants

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DEPOSITION OF MRS. LILLIE BEATRICE JACOBS, taken at the instance of and on behalf of the Plaintiff herein; on January 22, 1963, in United States District Courtroom, Post Office Building, Monroe, Louisiana.

[fol. 1000] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

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MRS. LILLIE BEATRICE JACOBS, witness called on direct examination at the instance of and on behalf of Plaintiff; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. Will you state your name, please?
A. My name is Lillie Beatrice Jacobs.

Q. Are you a negro?
A. Yes, I am.
Q. Where do you live?
A. I live at 1317½ Rear Breard.
Q. That's in Monroe?
A. Monroe, Louisiana.
Q. In Ouachita Parish?
A. Ouachita Parish.
[fol. 1001] Q. How long have you lived in Ouachita Parish?
A. I've lived in Ouachita Parish most of my life.
Q. Do you own your own home?
A. No, I own no property.
Q. Then you rent, I presume?
A. Yes, I rent.
Q. Where were you born?
A. I was born in Monroe, Louisiana; Ouachita Parish.
Q. When?
A. In 1924.
Q. How much schooling have you had?
A. I went to the tenth grade in high school.
Q. Are you married?
A. No, I am not married at the present time.
Q. Were you divorced or—
A. Divorced.
Q. What sort of work do you do?
A. I'm the custodian at one of the high schools.
Q. Have you ever been arrested?
A. No, I haven't.
Q. When was the first time you registered to vote in this parish?
A. I registered once back in '55; I believe that was the first.
Q. And you voted at that time?
A. Yes, I voted.
[fol. 1002] Q. And did you try to register any other time after that?
A. Yes, I was challenged from the rolls, and I reregistered.
Q. And you successfully reregistered?
A. Yes, I did.

Q. And did you have occasion to register again after that?
A. Yes, I did, and I was pulled from the rolls.
Q. When was that?
A. In '58, if I'm going to be more or less specific.
Q. And you were taken off the rolls for the second time?
A. Yes, I was.
Q. And what did you do about it?

Mr. Kron: Let's correct that. I know that the manner of presentation is an innocent one; but the fact is, she was not taken off the rolls—you were automatically off of the rolls by the end of the registration period?

Mr. Ross: No, that's permanent registration, Mr. Kron.

Mr. Kron: Were you challenged a second time?

A. No, I was pulled from the rolls.

Mr. Kron: Pulled from the rolls?

Mr. Ross: A second time. Can we explore that, for what reason, and just get through with that issue?

[fol. 1003] Mr. Ross: OK, we will explore it; fine.

A. The reason given me at that time was that I had not voted in four elections prior to that time.

Mr. Kron: So, it was not a challenge this time, it was having been taken off of the rolls purely as a matter of administration of the law?

A. That's right.

Mr. Kron: OK.

Mr. Ross: Well, I think we're going to have to straighten it out some more, Mr. Kron.

Mr. Kron: Well, you go right ahead and pursue it, I just wanted to straighten out that point at that time.

By Mr. Ross:

Q. Now, this was the second time you were taken off the rolls?
A. Yes.
Q. And you think it was about 1958?
A. Yes, about 1958.
Q. And it was the second time you were taken off for not voting, is that correct?

A. Yes.

Q. Were you ever taken off the rolls any other time?

A. Well, I've been taken off recently, which was in about the last two years, in '60 I believe.

[fol. 1004] Q. And what for that time?

A. She told me that my name had been run in the paper again, and showed me a clipping.

Q. Do you know why you were taken off that time?

A. No, I don't know why it was.

Q. Well, let's go back to 1958 again, after you were taken off for not voting, how long had you been on the rolls then?

A. I had been on the rolls—I got requalified during the '56 challenge.

Q. So, you had been on at least two years?

A. Yes, and I had voted.

Q. Had you voted between 1956 and 1958?

A. Yes, I voted in the Governor election and the city election.

Q. Well, did she give you any information for the fact that you had been taken off of the rolls, for not voting, and you thought that you had voted?

A. She told me that I didn't own any property, but I don't understand that part, I never did.

Q. Do you think she might have confused you with somebody else?

A. Yes, I think it's possible that she did.

Q. In what way?

A. My mother owns some property, and it could have been her.

Q. Is her name also—?

A. It's Lillie Brown Jacobs, and they could have listed it as "Lillie B.", see.

[fol. 1005] Q. Well, what happened when you sent back up there after you had been taken off?

A. I went for about two—not quite two weeks, I went two days in one week; and I filled a card out, and there was an error on the card. So the next day I went, and she told me to fill out another card; then I had to go and find the precinct in which I lived, which I proceeded to do. Then, after she gave me this verse of the constitution to interpret, it wasn't up to her standards, and therefore—

Q. Which time was that, the second time?

A. Yes sir.

Q. And that was the first week, you went two times in the first week?

A. That's right.

Q. And then you went back again the next week?

A. I went back.

Q. And what happened then?

A. I went back the next week for a complete week the next week, the following day.

Q. Once a day for a week?

A. Yes, that's right, I could only go after 4:00 each day, so when I got back—well, once it was about a quarter-to-five; and she told me I wouldn't have time to fill the card out, she said, "The office closes at 5:00."

So, I had to go back the next afternoon, and I did fill my [fol. 1006] card out and was given a verse of the constitution to interpret; and that wasn't right, the way I interpreted it. She told me that it was too much like the original verse. The next day, then, I was given another one; and the Registrar, which was Mrs. Lucky, she did not accept my explanation of the verse.

Q. Well, that's three days in the week; you went up on Thursday and Friday as well?

A. That's right, I was registered on the seventh or eighth try; and I received a verse that I had seen before, that they had given me before; and I interpreted it to the best of my knowledge, and they accepted that. I guess she just got tired of my coming back.

Q. Well, would you look at these and see whether these are the cards that you filled out on those occasions; is that your handwriting?

A. Yes, it is.

Q. Would you look at all of them and see whether they're all yours?

A. Yes, they are.

Q. These cards that she asked you to read and explain, or something, this was printed on a card, is that right?

A. Yes, it was.

Q. How did you happen to get that particular one that she gave you?

[fol. 1007] A. She would come up and get the registration card when I told her I had finished filling it out, then she reached over on the desk there, or in the drawer or somewhere, and get a card.

Q. Just one?

A. One card that had this verse of the constitution typed on it, and she would tell me to read it; I couldn't pick it up from the desk, that I was to read it, then give her my understanding of it.

Q. Do you think you could identify any of the things you had to read?

A. Well, I know one verse that she gave me, because it was the one that I saw twice; and I may recognize some of the others.

Q. Would you look through here and see if you can find any of them?

A. Yes. Article-4, Section-4.

Q. Article-4, Section-4, was one of them?

A. Yes.

Q. Could you find any more of them in there?

A. I don't recognize any more at this time.

Q. So, some of the times that you went up there, she said your application card was wrong?

A. Yes.

Q. And the other times she said your interpretation was wrong, is that right?

A. That's right.

[fol. 1008] Q. Now, how many times was it that she said the card was wrong?

A. The card was wrong once that I can remember; as I recall, it was a word that was supposed to be misspelled, I was supposed to have misspelled a word, I remember that one time.

Q. Did she tell you that?

A. Yes. This was—it wasn't Mrs. Lucky, this was the lady that works in the office with Mrs. Lucky.

Q. Some of the other times Mrs. Lucky waited on you, is that right?

A. Yes, that's right.

Q. Now, did she ever tell you what was wrong with your explanation?

A. No, she didn't tell me—yes sir, once she did—I'm sorry—that it was too much from remembering the same thing that I had read.

Q. I see. The first thing you did was read the card to yourself, is that correct?

A. That's right.

Q. And then she asked you to explain it?

A. Yes.

Q. The first time that you had to explain something, did you know you were going to have to explain it when you were reading it?

A. No, I didn't know it, I just had heard that they were giving the constitution to you when you go up to reregister. [fol. 1009] Q. And after you read the card and before you explained it, did you have the card in your hands when you were trying to explain it, or did she take it back?

A. No, she never did let me pick the card up off of the desk, it was just laying flat, and I read it; then she picked it up and turned it up to her, and asked me to give her the meaning of what was on the card, of what I had read.

Q. And just reviewing what you said before; after you did get registered, then you were removed again after that, is that correct?

A. That's right.

Q. And you haven't gone back since then?

A. Yes, I have been up there, and when I got up there I was too late to start to register, to start filling out the card, rather.

Q. That was the most recent time?

A. That's the most recent time.

Q. When was that?

A. That was last year, just before the elections of the city started; and after she didn't—I didn't get to register, and I went two days, and after I didn't get to register either one of those days, I haven't been back because of the way I've worked; I'd be so late going up there, until I just haven't been back.

Mr. Ross: I see. I have no further questions.

[fol. 1010] Cross examination.

By Mr. Kron:

Q. You're not registered now?

A. No sir, I'm not.

Q. So, you've actually been removed from the rolls three times?

A. Yes sir.

Q. Once in 1955 or '56 you were challenged and taken off?

A. That's right.

Q. Then in '58 you were removed, and it was explained to you that you hadn't voted a certain number of times in a certain period of time?

A. That's right.

Q. That's when you went every day for a while and finally got reregistered?

A. Yes, it is.

Q. All right. Then you were removed again?

A. Yes sir, I was removed again.

Q. When?

A. That was just before the presidential election; you see, that is when I found out I had been removed.

Q. I see. Did you go to find out why at that time?

A. Yes, I did.

Q. And what did she tell you then?

A. She told me that my name had been run in the paper, and that I should have seen it because it was run three [fol. 1011] days; and she showed me a clipping that said—if I'm not mistaken, about the 17th, 16th or 18th of September in that year, but I hadn't read that paper.

Q. All right. Now, was your name in this advertisement alone, or was it in a list of names?

A. It was in a list of names.

Q. All right. What did it say, the advertisement?

A. Well, to be truthful, she didn't let me have it long enough to read it all.

Q. Well, did she explain why they took you off this time?

A. It was more or less something about I hadn't voted in the last election.

Q. You don't know whether that was proper or not, do you?

A. Yes, I do, because I had voted.

Q. You had voted. What caused the error, do you think?

A. I really don't understand it, I don't know what was the cause of it.

Q. I see. Did you say your mother's name was exactly like yours?

A. It's Lillie Brown Jacobs.

Q. Had your mother voted?

A. My mother hadn't voted since the first gubernatorial election of Governor Long; you see, she's sick.

Q. Governor Long; all right. Now, let me ask you this: Was your mother taken off of the rolls?

[fol. 1012] A. Yes, she was.

Q. When?

A. She was taken off right after the gubernatorial election.

Q. Which one?

A. The first of Governor Earl Long.

Q. You mean when Long ran?

A. That's right.

Q. So that when you were taken off, your mother was not on the rolls?

A. That's right.

Q. So that could not have been the error you suggested a little while ago?

A. It possibly could not have.

Q. Could not have. If she wasn't on the rolls, she could not have been removed from the rolls for not voting, could she?

A. That's right.

Q. And you say you had voted?

A. That's right.

Q. But the records would show whether you had or not, wouldn't they?

A. Yes sir.

Q. And the records would also show whether you had voted during the time prescribed by our laws, otherwise you would be removed?

A. Yes sir.

[fol. 1013] Q. And you don't know what those rules and regulations are, do you?

A. No, I don't.

Q. All right. So, any time you say that you were removed in error, you're really only surmising that you were removed in error, you don't know actually whether you were removed in error or not?

A. No, I don't know.

Q. All right. Now, when was the last time you went to register?

A. The last time I went to register was in '61, and this is '63.

Q. You haven't been back since?

A. No.

Q. Are you familiar with a new type of test that is being given?

A. No, I'm not familiar with it, I've heard about them, but I've never—

Q. You've heard about it?

A. Yes.

Q. Have you read about it?

A. No, I haven't read about it.

Q. What have you heard about it, do you have any kind of an understanding about what kind of test it is?

A. Yes, I think I have, and I had planned to go up and try to register again.

Q. Good. Well, tell me what you understand that test to be?

A. Well, the first I heard, before I got this last under-[fol. 1014] standing, was that you had to have three persons stating that you had lived in the city for the past year.

Q. I'm talking about your last understanding; what do you understand the rule to be now?

A. That's all I've heard.

Q. How about the test?

A. You mean about the constitution?

Q. What kind of a test is it?

A. Oh, just to fill out the registration form?

Q. And?

A. And have the three identifying papers, and that's all I've heard about

Q. That's all you've heard?

A. Yes sir.

Q. Now, how could you study to do that? You said you wanted to study and prepare to be able to pass it; what do you mean by that?

A. No, I don't think I said it like that, I said I wanted to go up—?

Q. And try?

A. —and try again to register.

Q. I see. You haven't read anything about a new type of written test?

A. No, I haven't; to be frank, I haven't. If it's anything recently, I haven't.

[fol. 1015] Q. Since last October?

A. No, I've only seen where they say the cards are different.

Q. The cards are different?

A. Yes sir.

Q. You read the papers, don't you?

A. Well, I haven't been keeping up with them too much the past few months, but I read them.

Q. What is a Republican form of government?

The Witness: A Republican form of government?

Mr. Kron: Yes.

A. I can't answer that now.

Q. You don't know?

A. I can't control my thoughts right now.

Q. All right. Now, don't be afraid, I'm not trying to trap you; that's not my purpose here, to trap you, I'm simply trying to find out whether you understand—whether you have any just cause for complaint about all of these turn-downs that you're here talking about; and if you do have a just complaint, we want to show in the record. Now, try to think a moment; what is a Democratic form of government?

Mr. Dunbaugh: I think the record should show that Mr. Kron has been referring to complaints made by witnesses; and, of course, the government is the complainant in this case.

[fol. 1016] Mr. Kron: Very true.

Mr. Dunbaugh: The witnesses haven't complained, the Government is doing the complaining.

Mr. Kron: Yes. Good.

Q. Have you had time to think it out?

A. Well, as he stated, really wasn't complaining, I was subpoenaed.

Q. All right—but what is a Democratic form of Government?

A. Oh, I can't answer that now.

Q. You can't answer it. Now, the article that you selected out of this book shown to you, was Article-4, Section-4, of the constitution, and from the way it reads it's from the United States Constitution; and the quotation on this card that you identified it: "The United States shall guarantee to every state in this Union a Republican form of government." What does that mean?

A. That means that it guarantees every state—to protect the states from invasion, or something like that, that every state should have equal protection.

Q. I see. Military protection?

A. Well, all protection.

Q. All protection. Well, name me one type of protection that you're talking about?

A. From invasion from any foreign power, and—

Q. Now, do you honestly think that that is a correct interpretation of that simple sentence?

[fol. 1017] A. Well, no, and as far as I can think right now, I don't even think that's what I gave her that day, because I can't think back that far right now.

Q. All right. Now, all of these cards that have been introduced in the record, from P-4 through P-10, those were on successive days; September 9, 11—there are two on September 11, there is one of the 14th, 15th, 16th and 17th; and on the card marked P-9, on the 16th of September, I notice the name of the Deputy Registrar, as signed to that, as Mae Marin, (spelled) M-a-r-i-n—?

Mr. Dunbaugh: M-o-r-i-n. (spelled)

Q. —or Morin; is that correct?

A. That's right.

Q. All right. Is that the card upon which you were registered, when she signed that card?

A. I'm going to be frank—

Q. You don't know?

A. —the card wasn't signed while I was standing there, and she took the card and gave me the verse to interpret.

Q. All right. I'm talking about the day upon which you were registered?

The Witness: The one that I was registered on?

Mr. Kron: Yes.

A. The only thing that I know that I was registered, is that she told me yes when I asked; and I had nothing [fol. 1018] given to me to say that—you know, that I was actually registered until I went to try to vote.

Q. You were given no card? You signed no register, you were given nothing to indicate that you were a registered voter?

A. That's right, she told me that I was, and that's all.

Q. I see. Now, then on September 17th, on the card marked P-10, there is another application unsigned by the Registrar. Did you go back into the Registrar's office again after they told you that you were registered?

A. This card here is—this must be when she wouldn't accept the interpretation I gave her, it's in those that run in that time.

Q. Did you say that she refused to accept an interpretation on all of these except one card, which was wrong?

A. That's right.

Q. You have no way to explain, you don't know really on which card your registration was accepted?

A. No, I don't.

Mr. Kron: I have no further questions.

Redirect examination.

By Mr. Dunbaugh:

Q. Are you nervous today?

A. Yes, I am, I can't deny that I am.

Q. Do you think you might have been able to answer some of Mr. Kron's questions more easily if you had had more time to think about it?

[fol. 1019] A. I believe I would have. I've been nervous ever since I received the subpoena.

Mr. Dunbaugh: Can we go off the record a minute?

Mr. Kron: Yes, sure.

(Colloquy of counsel)

Recross examination.

By Mr. Kron:

Q. If we were to suggest that you take 15 or 20 minutes to think the questions out, would you believe you could give me a proper answer to the definition of a Republican or Democratic form of government, without discussing the matter with anyone or without having to go look it up at this time?

A. I probably could answer you a little more specific.

Q. Would you like to try to do that?

A. I would.

Mr. Kron: All right, I suggest, then, that we temporarily excuse this witness and let her compose herself, and be called back to the stand in 15 or 20 minutes.

Mr. Ross: OK.

Mr. Dunbaugh: Could we then take the other witness' deposition in the interim?

Mr. Kron: Yes, we can take another one in the interim.

[fol. 1020] Mr. Ross: You can just go outside and sit out there and relax while we go ahead, Mrs. Jacobs.

Mr. Kron: If you don't mind, I would prefer that she sit somewhere in here, and not have any communication with anybody.

(Deposition recessed for 25 minutes)

Recross examination.

By Mr. Kron:

Q. Lillie, I had suggested about 20 minutes ago that you be given time to calm down from your nervousness, and to think about the possible answer to the question I had given you; even asked you, if given such time, did you think you might be able to gather your thoughts together and answer that question. Now, you have had about 15 or 20 minutes to sit down and think about this question?

A. Yes, I have.

Q. Now, can you tell me the difference between a Republican and a Democratic form of government; or, let's make it simpler than that: Can you tell me what is a Republican form of government?

A. I'll answer you frank; I could answer that question, but it—this I had been told when—that you had to be able to read some of the constitution and explain it, and I had been studying it at that time and was prepared for it; and I [fol. 1021] haven't read it in quite some time, and I know it, but it just—right now, just being so nervous it just won't come to me.

Q. All right. Well, let's get something even easier than that, that maybe you wouldn't have to study. How are your local state district judges placed in office?

A. Would you please repeat that for me?

Q. Well, in the state courts you have a judge for each parish or for each 2 or 3 parishes; they call that a judicial district. How do they get into office, how do they get there?

A. I believe the judicial judge is elected.

Q. They're elected by whom?

A. They're elected by the voters.

Q. By the voters?

A. The people that's in that district.

Q. All right. Now, what are his duties and responsibilities?

A. I think he is to rule over—he is to rule over the highest court here in the city, if I'm not mistaken.

Q. In the city?

A. Yes sir.

Q. What does your police juror do?

A. I'm not too familiar with the law on those things, to be frank with you.

Mr. Kron: I have no further questions.

Mr. Ross: That's all, thank you.

Witness excused.

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[fol. 1022]

PLAINTIFF'S EXHIBIT No. 24D

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION.

Civil Action No. 2,548

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UNITED STATES OF AMERICA, Plaintiff,

versus

THE STATE OF LOUISIANA, et al., Defendants.

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DEPOSITION OF MRS. BETTY RUTH LEE, taken at the behest of and on behalf of Plaintiff; on January 22, 1963, in the Post Office Building, Monroe, Louisiana.

[fol. 1023] STIPULATION

It is stipulated by and between Counsel for Plaintiff and Counsel for Defendants that all formalities in connection with the taking of this deposition are waived except the swearing of the witness, including the signature of the witness.

Counsel, however, reserves the right to object to the relevancy or materiality of any question or answer in this deposition at the time that the deposition is sought to be introduced in evidence during the trial of the above entitled action.

MRS. BETTY RUTH LEE, witness called on direct examination at the instance of and on behalf of Plaintiff herein; first duly sworn, did depose and say, to-wit:

Direct examination.

By Mr. Ross:

Q. Will you state your name, please?
A. Betty Ruth Tillman Lee.
Q. Are you a negro?
A. Yes, I am.
Q. Where do you live?
A. I live at 300 Lee Street in West Monroe.
Q. Is that in Ouachita Parish?
A. It is.
Q. How long have you lived in Ouachita Parish?
A. I've lived in Ouachita Parish about 29½ years.
[fol. 1024] Q. Are you married?
A. Yes, I am.
Q. How many children do you have?
A. I have one child.
Q. Do you and your husband own your own home?
A. We are buying it.
Q. Where were you born?
A. I was born in Ouachita Parish, in West Monroe.
Q. When?
A. April 29, 1933.
Q. How much education have you had?
A. I have a B. S. Degree in Science and Physical Education, and I'm working toward an Elementary Degree.
Q. And what sort of work do you do now?
A. I am now teaching at an elementary school in Ouachita Parish.
Q. How long have you been teaching?
A. About two years, I'm going on my third year now.
Q. Have you ever been arrested?
A. No, I haven't.
Q. Have you ever tried to register to vote in Ouachita Parish?
A. Yes, I've tried once.

Q. When was that?

A. That was in about—I don't remember the exact month, but it was in about '58.

Q. And what happened when you went to register?

[fol. 1025] A. When I went to register I was given a card and told to read it, and after I read the card I was supposed to interpret it; and the person that handed me the card said that I didn't interpret it to her satisfaction.

Q. How did you get the card that you had to read?

A. She gave it to me.

Q. Just one?

A. Uh huh, just one.

Q. Have you tried to register again since then?

A. No, I have not.

Mr. Ross: I have no further questions.

Cross examination.

By Mr. Kron:

Q. Where did the Registrar get ~~that card that~~ she handed you?

A. I don't really remember just where she got the card from, but I think she took it out of her file that was under the counter; I guess it was under the counter.

Q. Do you remember what section the card was—what the card was about?

A. The card was concerning something about a Republican and a Democratic form of government.

Q. Did you interpret that correctly.

A. Well, I thought I interpreted it correctly.

Q. You thought you had?

A. I thought I interpreted it correctly.

[fol. 1026] Q. I see. You don't remember what section of the constitution it was?

A. No, I don't remember what section it was.

Q. Would you be able to identify it, do you think you could identify it if you saw it again?

A. I think I could if I saw it again.

Mr. Kron: Mr. Ross, do you have it over there? Oh, these are the cards. Cut your machine off. See if you can find it.

A. I don't see it in here.

Q. You have looked through that book—?

A. Yes, I have.

Q. —and you can't recognize it?

A. That's right.

Q. But you did say it was a short one, and not a long section?

A. Yes.

Q. And your recollection is, it was about the Democratic and Republican forms of government?

A. Yes.

Q. Now, you think your answer was correct, but you're not positive of that, are you?

A. Well, I'm not positive of that, but who am I to—how am I to know that I am so positive?

Q. I see—but you're not sure that your answer was correct?

A. I can only say that I—

[fol. 1027] Q. You thought it was?

A. —that I believe it was.

Q. All right. Why haven't you been back?

A. I haven't been back for the simple reason that I thought I interpreted it correct the first time; and if I had interpreted it correct the first time and she said it wasn't to her satisfaction, I know that if it was in a person, that if they just—I mean to say, that if they don't want it to be to their satisfaction, that I could interpret something all day, and they could still say that it's not to their satisfaction.

If it's not any particular thing in sequence there written out that I just must say, I could go on inevitable with that same testimony and she could still say, "It is not to my satisfaction."

Q. So, you didn't go back because you were sure that regardless of what you might say, she would not accept it as correct?

A. I couldn't say I'm sure, but I could say that if I had thought I interpreted the question the first time—if I thought I had interpreted it the first time and she refused me, that it would be the same way again.

Q. I see. Now, have you read recently of the change in the type of test that has been designed for registration?

A. I have.

Q. What do you understand that test to be?

[fol. 1028] A. Well, my understanding about that test is that it is written in question form, and it has at least 3—I guess about 3 answers, and you select the correct answer.

Q. Do you think you could pass that kind?

A. Well, I thought I could pass the other kind; I have no way of knowing until I get there.

Q. I see. Why haven't you been since the new test—?

A. I haven't been for a number of reasons and the main one was because I got upset over the other one, and I wanted to be completely at myself when I went the next time.

Q. You were upset over the other one?

A. Yes sir, I was.

Q. So you just became adamant about it, isn't that right?

A. Well, I don't—you'll have to interpret that word for me, because I really don't understand what you mean.

Q. Don't you have a B. S. in Science?

A. I have a B. S. in Science, yes sir.

Q. And you've been teaching school for two years?

A. Yes, I have.

Q. You don't know what the word "adamant" means?

A. No, I do not.

Q. How many years did you go to college?

The Witness: You told me to tell the truth, did you not?

Mr. Kron: Oh, yes, I expect you to.

[fol. 1029] A. Well, I am, and I don't know.

Q. How many years did you go to college?

A. I went to college four years.

Q. At Grambling, did you say?

A. I did not go to college four years at Grambling, I went to college at Agricultural, Mechanical & Normal College in Pine Bluff, Arkansas.

Q. Pine Bluff, Arkansas. You were a resident student there?

A. I was; I was a student in the dormitory, yes.

Q. You lived on campus?

A. Yes.

Q. Well, now you got your degree from what school?

A. Arkansas.

Q. From Arkansas. How long did you go to Grambling?

A. I went to Grambling one semester.

Q. One semester?

A. Uh huh. (Affirmative)

Q. Did you pass at Grambling?

A. Yes, I passed.

Q. All right. Now, you stayed at the school in Arkansas for four years?

A. That's right.

Q. All right. Now, what is a Republican form of government?

The Witness: Am I required to answer that?

Mr. Kron: You most certainly are.

[fol. 1030] A. I am? Well, the Republican form of government more or less represents—it's a centralized form, and it more or less represents—they are more or less concerned with bank interest, and so forth.

Q. All right. Now, what is a Democratic form of government?

A. Well, a Democratic form of government is more or less a decentralized form of government.

Q. Decentralized?

A. Yes. Now, I am under the impression—I am not a social studies, and my major was Physical Education, you understand; and I don't profess to know—to be outstanding, you see, in that particular field. As you know, when you specialize in a certain field, sometimes you—

Mr. Kron: No further questions.

Redirect examination.

By Mr. Ross:

Q. One more thing; is this the card that you filled out the time you went up there?

A. Yes, it is.

Q. Is that your handwriting?

A. Uh huh, that's my handwriting.

Mr. Ross: We will enter this in evidence.

The Reporter: Shall I mark it P-3?

Mr. Ross: Yes.

Q. One more thing. You're taking graduate work at [fol. 1031] Grambling, is that right?

A. No, I haven't done any graduate work at Grambling.

Q. All right, let's understand that. You went to Grambling both before and after you went to school in Arkansas?

A. Yes.

Q. One semester before, and how long afterwards?

A. About one semester before. See, I left Arkansas and came home and stayed a semester, and I went to Grambling because my mother always wanted me to go to Grambling; but at the time I wanted to go to Arkansas, because really I was interested in Physical Education, and Grambling's Physical Education at that time—they had just started it. You know, for a long time it was only for elementary teaching, and they had just started this Physical Ed Department up there; and I thought that Arkansas' department was, you know, set up better, and so I went to Arkansas. Then she kept saying she would rather for me to go to Grambling, so she told me that if I came back and would go to Grambling; that if I didn't like it I could go back to Arkansas, and that's what happened; I preferred Arkansas, and so after I stayed there a semester, she let me go back to Arkansas; and then after I finished, then I went and started certifying in Elementary Education.

Mr. Ross: No further questions.

[fol. 1032] Recross examination.

By Mr. Kron:

Q. Your understanding of a Republican form of government is that it's a centralized sort of thing and has to do with banking; is that what you said?

A. I said it more or less—that the persons more or less were interested in bank, but it is—I mean to say, it is a form of government that is for the people and by the people, I remember that.

Q. The Republican Party is made up more or less of bankers?

A. I didn't say it was made up of bankers, I said that when it was first—when the party was first started, that its interests more or less catered to bank interest, and it more or less cultivated it, if you know what I mean.

Mr. Kron: No further questions.

Redirect examination.

By Mr. Dunbaugh:

Q. Mrs. Lee, when the Registrar told you that your interpretation was not satisfactory, did she tell you what was wrong with it?

A. No, she didn't, she didn't tell me.

Mr. Dunbaugh: Thank you, Mrs. Lee, that's all.

Mr. Kron: No further questions.

Witness excused.

[fol. 1033]

PLAINTIFF'S EXHIBIT No. 25D

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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THE UNITED STATES OF AMERICA,

versus

THE STATE OF LOUISIANA, et al.

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The deposition of Reverend Thomas N. Phillips, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the East Feliciana Parish Courthouse located at Clinton, Louisiana, commencing at 2:05 P. M., on the 28th day of January, 1963.

APPEARANCES:

Frank M. Dunbaugh, III, Esq., Department of Justice, Washington 25, D. C., For Plaintiff.

Harry J. Kron, Jr., Esq., Assistant Attorney General, For the State of Louisiana, Capitol Building, Baton Rouge, Louisiana, For Defendants.

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[fol. 1035] The witness, REVEREND THOMAS N. PHILLIPS, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. Will you state your name and your address?
A. Sir?
Q. Will you state your name and your address, please?

A. My name—Thomas N. Phillips, Route 1, Box 326, Clinton.

Q. How old are you, Reverend Phillips?

A. I was 66 the June gone.

Q. What is your occupation?

A. A pastor.

Q. Here in this parish?

A. Yes, sir.

Q. How long have you lived in East Feliciana Parish?

A. All my life.

Q. How far did you go in school?

A. Ninth grade.

Q. Do you own property here in East Feliciana Parish?

A. Well, yes, sir, we have estate property. We all have interest in the place we are living in, yes, sir.

Q. Are you a registered voter in East Feliciana Parish?

A. (The witness did not reply.)

Q. Are you registered to vote in East Feliciana Parish?

A. Not at the present. I was.

Q. When did you register when you were registered?

A. When I first registered to vote was in December 1 of [fol. 1036] '51.

Q. And how long were you registered to vote?

A. Up until they cut us off. I think it was in '58.

Q. Did you vote during that time?

A. Yes, sir.

Q. Do you know why they took you off?

A. No, sir, I really doesn't know the real reason why they cut us off.

Q. Have you tried to get back on since you were taken off?

A. Yes, sir.

Q. Do you know about how many times you have tried?

A. Well, as near as I can guess, I went there 4 or 5 times in all.

Q. I will show you what has been marked as "P-28," "P-29," "P-30," "P-31," and "P-32." Would you look at those and tell me whether or not that is your handwriting on there?

A. That's my handwriting.

Q. Would you look at all of them please?

A. (The witness so did.) That's it. That's it, yes, sir.

Q. It is your handwriting on all of those?

A. Yes, sir.

Q. What are those?

A. The registration certificate. You mean what are these?

Q. Yes.

A. The form of application for registration.

Q. These are the ones that you had filled out when you [fol. 1037] tried to reregister?

A. It must be, because this is my handwriting.

Q. Now, these are dated starting in December, 1958, on through to June, 1959. Is that about the time you were trying to reregister?

A. Yes, sir, about the time.

Q. When you went into the office to reregister, what did you have to do?

A. Well, you just go in and tell them what you came there for, you know, and he would take those cards and hold them up just like a deck of cards.

Q. These cards here?

A. No, sir, it was smaller cards, about the size—maybe a little bigger than a deck of cards. He hold them up like that and tell you to pull one of them.

Q. He would hold up a group of cards?

A. Yes, sir.

Q. Could you see what was on the cards when he held them up?

A. Not exactly until you pulled it.

Q. And then when you pulled one you could see what was on it?

A. Yes, sir.

Q. What was on the card?

A. The one I pulled was Section 7 and 8—it was the right to bear arms—I imagine I could just repeat it just like it is there—search and seizures.

[fol. 1038] Q. Did you have to fill out an application card when you went in to reregister—one of these cards here?

A. Yes, sir, it don't seem like it was quite that big, but this must be it, because that's my handwriting.

Q. Did you fill out one of these every time you went in to—

A. Every time you would go in you would have to fill out one.

Q. Did you get to pull one of these little cards every time you went in?

A. No, sir.

Q. About how many times did you get to pull those?

A. I pulled two cards.

Q. And one of them was the right to bear arms?

A. That's right.

Q. In other words,—

A. Search and seize.

Q. That was a different time, or—

A. Yes, sir.

Q. —was that the same time?

A. Different time.

Q. All right. Was there more than one thing—more than one paragraph on the little card that you pulled?

A. I want to be sure now. I'm not for sure, because I only read one, yes, sir.

Q. What did the registrar want you to do with the little card?

[fol. 1039] A. I mean—the one you pull?

Q. Yes.

A. When you pull it, he wants you to read it and interpret it.

Q. Did you read it?

A. Yes, sir.

Q. Out loud?

A. Yes, sir, I read it.

Q. To yourself, or did you read it out loud?

A. I read it out to him so he could hear it, yes, sir.

Q. And then what did you do?

A. Well, he was—then I give the interpreted, and then he said it wouldn't pass.

Q. Now, one time you said you got something about the right to bear arms?

A. Yes, sir.

Q. What did you tell him that meant?

A. I said—I said, "We bear arms, but not concealed." That's the way I interpret it.

Q. And what did he say about that?

A. He said that was wrong. He said I could have said "not concealed."

Q. What about the other time?

A. The other time my interpret was, "To search you would have to get an authorized authority to read a warrant."

Q. What did he say to that?

A. He said that wouldn't go. He said I could have just [fol. 1040] said, "read a warrant."

Q. Did he tell you anything else about it?

A. About the cards?

Q. About—did he say anything else about your explanation?

A. No, sir, no more than he told me that he couldn't accept that.

Q. I have no further questions.

By Mr. Kron:

Q. Reverend, was Mr. Dunbaugh at your house during these last few days?

A. Mr. Dunbaugh?

Mr. Dunbaugh: That's me.

A. Yes, sir.

By Mr. Kron:

Q. While he was there did you go through some cards and remember which sections you tried to interpret—

A. Yes, sir.

Q. —for the registrar?

A. Yes, sir.

Q. Are these—the cards marked Appendix B—are these the ones you looked through while he was there?

A. I don't believe these are the ones—I don't believe.

Q. Well, there are several pages of them—maybe if you would turn the page. I would like for you to show me—

A. Oh, yes.

Q. —the sections that you pointed out to him that you had to answer.

[fol. 1041] A. (The witness looked at the papers.)

Q. Is that the ones you looked over when Mr. Dunbaugh was there, or were there some other cards?

A. It seemed like it was a smaller card.

Q. Smaller card?

A. Yes.

Q. All right. On those smaller cards did you find the ones that the registrar had asked you to interpret?

A. Yes, sir.

Q. If we showed those to you now, could you remember them again?

A. Yes, sir.

Mr. Kron: Mr. Dunbaugh, do you have those cards with you?

Mr. Dunbaugh: Yes, I do. Actually it's copies of those in different form. These are the individual cards put together as they are attached.

A. This is one of them.

By Mr. Kron:

Q. You are pointing to the fourth paragraph on form number 20, is that correct?

Mr. Dunbaugh: It is the third provision, the third clause on it.

A. (The witness did not reply.)

By Mr. Kron:

Q. The third clause, the fourth sentence—

[fol. 1042] Mr. Dunbaugh: Yes.

By Mr. Kron:

Q. —on form number 20, right?

A. (The witness did not reply.)

Q. Is this what you are pointing to?

A. Yes, sir.

Q. All right. Would you read that to me?

A. "The right of the people to be secured in their personal house, papers,"—and it says, "against unreasonable

searches or seizures should not be violated, U. S. A. Constitution, fourth amendment."

Q. All right. Now, what does that mean?

A. You mean you want me to interpret for you?

Q. Yes.

A. Unauthorized authority and read a warrant.

Q. What do you mean by that?

A. I mean the person that comes to seize or search has to be authorized, that's all.

Q. Authorized by whom?

A. By the judge.

Q. Yes. What judge, the local judge?

A. According to what district he's in, is the way I heard it.

Q. I see. All right. Now, authorized with a warrant, is that correct?

A. Sir?

Q. Is that what you mean?

A. Yes, the place, the name, and the—

[fol. 1043] Q. Is there anything about a warrant—

Mr. Dunbaugh: Would you let the witness finish his answer, please?

By Mr. Kron:

Q. Is there anything about a warrant in that sentence you just read?

A. No, sir, but that was on here.

Q. On whose?

A. On the card I pulled.

Q. On what?

A. Card.

Q. It was on the card?

A. Yes, sir.

Q. That the registrar gave you?

A. Yes, sir.

Q. I thought you said this was the sentence that the registrar gave you?

A. The same reading,—

Q. All right.

A. —but it was more to it than this.

Q. More to it than that?

A. Yes.

Q. So actually then this is not exactly like the one the registrar gave you?

A. Doesn't have all the words on it, no, sir.

Q. I see.

A. Yes, sir.

[fol. 1044] Q. Now, who told you this read a warrant thing was correct?

A. Well, I felt like that is the only way if a person comes to seize or search your house, he would have to read a warrant to where he could come and seize the place he was in—where it could be seized. That's what I said.

Q. Have you checked that with anybody?

A. No, sir.

Q. You haven't discussed whether that was correct or not with anybody?

A. I have not.

Q. You have not?

A. No, sir.

Q. Now, can you find the other provision?

A. I must have overlooked it then, let me see—let me go back over it. This is it, but it doesn't have the whole reading like it does on the card.

Q. You are on form 21 and you are pointing to the third section on that page, is that correct?

A. Yes, sir.

Q. Would you read that for me?

A. "The rights of the people to keep and bear arms shall not be infringed. U. S. Constitution, second amendment."

Q. Now, what does that mean?

A. That means you can bear arms, but not conceal them.

Q. Is there anything about conceal in that sentence?

A. No, sir.

[fol. 1045] Q. Are you sure that's a correct answer?

A. Well, I'm not sure, but that's the way I felt like it was. That was read in the other one—was more reading than it was in this one.

Q. It had something about concealed in the other one?

A. Yes, sir.

Q. If I told you that the Constitution didn't have the word "concealed" in it, would I be wrong?

A. Well, I believe I read once where it had conceal in it. I wouldn't say you was wrong.

Q. You are not sure of that, though, are you?

A. Not too sure, but I think I remember reading something about conceal.

Q. I see. Did you check that answer about conceal with anyone else to be sure it was correct?

A. No, sir.

Q. Have you discussed it with anybody?

A. Nobody.

Q. No lawyer or anybody like that?

A. No, sir.

Q. Are you sure—are you positive in your own mind that those two answers are correct, or is it just your opinion that they are correct?

A. Well, I feel like that it is wrong to carry concealed weapons, and I feel the same about searching and seizing. I feel like if you were to come to my place with a search warrant, you would have to read it, and the name of the [fol. 1046] place to be searched and the article to be seized.

Q. Is that what those two provisions say?

A. No, sir, it doesn't say that.

Q. That's your understanding of it?

A. Yes, sir.

Q. What did the registrar tell you when you gave him those answers?

A. He wouldn't accept them.

Q. Tell me again what he answered you when you gave him those answers?

A. When I give him the answers on searching and seizing, he said he wouldn't accept that. He said all I had to do, he said, was say, "Read a warrant."

Q. Well, you had said that, hadn't you?

A. I said "By authorized authority to read a warrant." That's what I said.

Q. But he said you said too much?

A. Yes, sir.

Q. All right, and on the other one?

A. The same thing. He said I should have said, "Not concealed."

Q. I see. So that you said too much?
A. Yes, sir.
Q. And you are sure that is exactly the way it happened?
A. That's the way it happened.
Q. All right. Now, Reverend,—
[fol. 1046a] A. Yes, sir.
Q. —according to these cards, the last time you were in the registration office was in June of 1959. Have you been back there since?
A. No, sir.
Q. Why not?
A. Well, I just didn't go back, because—facts about it, I felt like the last time I was there and give that answer, I felt within myself that it was right.
Q. Now, are you familiar with the fact that the law has now been changed?
A. Oh, yes, sir.
Q. What do you understand about the change in the law about registration?
A. Registration—well, I'd be afraid to say exactly, because—
Q. Do they still give this interpretation test?
A. In the registration office?
Q. Yes.
A. No, sir, not that I know of.
Q. Not that you know of. Do they give any kind of tests?
A. Well, I haven't been in there since July—I mean, June of '59.
Q. Do you read the newspapers?
A. Yes, sir.
Q. You haven't seen anything in the newspapers about a change?
[fol. 1047] A. I saw something similar to the change, but I never read the whole meaning though, just how it would come about.
Q. I have no further questions.

Mr. Dunbaugh: Please attach exhibits "P-28" through "P-32" to the deposition.

Witness excused at 2:30 P.M.

[fol. 1048]

PLAINTIFF'S EXHIBIT No. 26A

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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UNITED STATES OF AMERICA,

versus

THE STATE OF LOUISIANA, et al.

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The deposition of D. D. ALLEN, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the East Feliciana Parish Courthouse located in Clinton, Louisiana, commencing at 9:20 o'clock A. M., on the 28th day of January, 1963.

APPEARANCES:

FRANK M. DUNBAUGH, III, ESQ., Department of Justice, Washington 25, D. C., for Plaintiff.

HARRY J. KRON, JR., ESQ., Assistant Attorney General, for the State of Louisiana, Capitol Building, Baton Rouge, Louisiana, for Defendants.

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[fol. 1049] The witness, D. D. ALLEN, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. Would you state your name and address, please?
A. D. D. Allen, Jackson, Louisiana.
Q. What is your race?
A. I am white.

Q. What is your occupation, Mr. Allen?
A. Barber.
Q. You live in East Feliciana Parish?
A. Yes.
Q. Are you a registered voter here?
A. Yes, sir.
Q. When was the last time that you registered?
A. I just don't remember just how long it has been. It's been a couple or three years I guess, something like that—when they all had to register over again.

Mr. Dunbaugh: Would the court reporter mark this as "P-1"?

(The Reporter so did.)

By Mr. Dunbaugh:

Q. Would you examine what has been marked as "P-1," Mr. Allen. Can you identify that?
A. Yes.
Q. What is that?
A. "P-1."
[fol. 1050] Q. Well, what is this document?
A. It's a registration of voters.
Q. Is that an application form?
A. Yes.
Q. Is that your application form—
A. Yes.
Q. —or a copy of it?
A. Yes. My handwriting.
Q. Is that the application you filled out the last time you registered?
A. This is it, or one just like it.
Q. What did you have to do to register at that time?
A. Well, I just went in there and he handed me the blank and I taken it and filled it out.
Q. Did you have to do anything in addition to filling out the blank?
A. No, sir.
Q. Did he ask you any questions?
A. No, sir.

Q. Did you have to read and explain anything?

A. No, sir, I didn't. He just give me the blank and I filled it out and went on back to the job.

Q. How much education do you have?

A. Eighth grade.

Q. Was there anyone else registering at the time you were registering?

A. Yes, sir, there was a lot of people in there. At the [fol. 1051] time I went in there there was a lot of people in there registering.

Q. Did they all appear to be doing the same thing you were doing?

A. Well, I didn't notice, you know. I just went in there and he gave me the blank. I didn't—I just noticed there was a lot of people in there. That's about all.

Q. I have no further questions.

Mr. Kron: I have no questions. May I see this just a moment before you leave?

(Counsel examined "P-1.")

Mr. Kron: No questions.

Mr. Dunbaugh: I offer this "P-1" for attachment to the deposition.

Witness excused at 9:28 A.M.

[fol. 1052]

PLAINTIFF'S EXHIBIT No. 26C

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action File No. 2548

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UNITED STATES OF AMERICA,

versus

THE STATE OF LOUISIANA, et al.

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The deposition of EVA W. DEES, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the East Feliciana Parish Courthouse located at Clinton, Louisiana, commencing at 10:32 A. M., on the 28th day of January, 1963.

APPEARANCES:

FRANK M. DUNBAUGH, III, ESQ., Department of Justice, Washington 25, D. C., for Plaintiff.

HARRY J. KRON, JR., ESQ., Assistant Attorney General, for the State of Louisiana, Baton Rouge, Louisiana, for Defendants.

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[fol. 1053] The witness, EVA W. DEES, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help her God, testified as follows:

By Mr. Dunbaugh:

Q. Will you state your name and address, please?
A. Huh?
Q. Your name and address, please.
A. Mrs. Eva Dees, Jackson, Louisiana.
Q. Mrs. Dees,—

A. Eva W. Dees—Mrs. Eva W. Dees, Jackson, Louisiana.

Q. What sort of work do you do?

A. Well, I'm not working now. I was at the time. I was working at the East Louisiana State Hospital as an attendant.

Q. How long have you lived in East Feliciana Parish?

A. Well, now, I'm going to say 25 years. I might miss it, I don't know. I maybe have longer, but it's something like that.

Q. How long have you lived in Louisiana?

A. How long what?

Q. How long have you lived in Louisiana?

A. All my life. I was raised in Louisiana, born and raised in Louisiana.

Q. Are you a registered voter in East Feliciana Parish?

A. Yes, sir.

Q. Do you remember about when you registered?

A. Huh?

[fol. 1054] Q. Do you remember about when it was that you registered?

A. Well, let's see, it was in '59, but I couldn't tell you what month. I really don't know.

Q. I show you "P-11." Do you recognize that?

A. Oh, yes, sir, it was the first month, the 26th day, 1959. Yes, sir.

Q. What is that that you are reading from?

A. What you mean—read this whole thing?

Q. No, what is it? Just identify it, tell us what that is that you are looking at.

A. Tell me what you mean—I mean, I don't get it.

Q. This is a picture.

A. I know it's a picture.

Q. Picture of what?

A. Oh, it's a picture of where I registered. Is that what you mean?

Q. Is that the application that you filled out?

A. Yes, sir. Yes, sir.

Q. Is that your handwriting?

A. Yes, sir.

Q. All right. Now, what did you have to do to register?

A. What did I have to what?

Q. What did you have to do when you registered?

A. I had to do so much, and I had a hard time.

Q. Did you have to fill out that card?

A. Yes, sir.

Q. Did you have to do anything else besides fill out the [fol. 1055] card?

A. Well, the man was there, Mr. Palmer. He handed a strip of little cards out and I chose one. And then he read it off—something about did I think everyone should go, you know, every human being should go to the same church, and I told him I thought they should go to the church of their choice.

Q. What did he say—did he say that was all right?

A. He didn't say anything.

Q. Did you become registered?

A. Well, I got the little card. He never said nothing. I just went in there and told him I wanted to register, and he just gave me—I reckon it was this piece of paper, and I went to work on it. Don't ask me how long it taken, though.

Q. Why, did it take a long time?

A. Oh, man, I like to never got that thing done.

Q. How far did you go in school, Mrs. Dees?

A. How far?

Q. How far in school did you go?

A. About the—about the 6th grade.

Q. And you are a white person?

A. (The witness did not reply.)

Q. You are white?

A. No, sir, I'm not working.

Q. What is your race?

A. (The witness did not reply.)

[fol. 1056] Q. What is your race?

A. My race?

Q. Yes.

A. I'm American, I reckon.

Q. I mean, are you a white person?

A. Yes, I'm white. What do you mean?

Q. Well, you see, it doesn't show on the record unless you tell us that you are.

A. Oh, well, it's on that—as far as I was female or white.

Q. Do you think you would recognize the question that he asked?

A. The question that who asked?

Q. The registrar asked you?

A. He didn't ask me no questions. All he did was give me this, I reckon, and there was some more around there, and they were doing the same thing I was—having a hard time.

Q. But after you filled that out what did you have to do?

A. Nothing.

Q. But you said something about a question.

A. Well, they give me that card.

Q. What did you do with the card?

A. He didn't give it to me. He held out a bunch of cards, and I drawed one, and then he taken it back. I didn't even look at the card. He taken it back and he read on there, and he asked me something about the choice did I think every-[fol. 1057] body should go to the same church, don't you see, and I said I thought everybody should go to the church of their—what they, you know, that they thought their religion was right—of their choice.

Q. O.K.

Mr. Dunbaugh: I want to attach the "P-11" to the deposition. I have no further questions.

Mr. Kron: No questions.

By Mr. Kron:

Q. That will be all.

Witness excused at 10:38 A.M.

[fol. 1058]

PLAINTIFF'S EXHIBIT No. 26F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
BATON ROUGE DIVISION
Civil Action No. 2548

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THE UNITED STATES OF AMERICA,

versus

THE STATE OF LOUISIANA, et al.

---

The deposition of Cleo Lee, witness in the Federal Court Action, taken at the instance of plaintiff in the Federal Court Action, taken in the East Feliciana Parish Courthouse located at Clinton, Louisiana, commencing at 1:25 P. M., on the 28th day of January, 1963.

APPEARANCES:

Frank M. Dunbaugh, III, Esq., Department of Justice, Washington 25, D. C., For Plaintiff,

Harry J. Kron, Jr., Esq., Assistant Attorney General, For the State of Louisiana, Capitol Building, Baton Rouge, Louisiana, For Defendants.

* * * * * * *

[fol. 1059] The witness, CLEO LEE, after having first been duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

By Mr. Dunbaugh:

Q. Will you state your name and address, please?
A. Jackson, Louisiana.
Q. And you are Cleo Lee?
A. Yes, sir.

Q. How long have you lived in East Feliciana Parish?
A. Fourteen years.
Q. How old are you, Mr. Lee?
A. Fifty.
Q. What sort of work do you do?
A. Carpenter work.
Q. How far did you go in school?
A. Sixth grade.
Q. Are you a registered voter in East Feliciana Parish?
A. Yes, sir.
Q. When you registered, Mr. Lee, what did you have to do?
A. Well, here, I'll tell you, he pulled—he just pulled that registration card, you know, and gave it to me. I filled it out; I handed it back to him and he looked at it and said, "That's all right."
Q. I'll show you what has been marked "P-22". Will you hold on to that and look at that?
A. (The witness so complied.)
Q. Do you recognize that?
[fol. 1060] A. "P-22".
Q. Well, I just marked that piece of paper "P-22". Do you know what that paper is?
A. This is the registration paper.
Q. Is that a copy of the card you filled out?
A. Yes, sir, I believe it is. I would think it was a copy.
Q. Is that your signature on there?
A. Yes, sir.
Q. And it's in your handwriting?
A. Yes, sir.
Q. O. K. Now, after you filled out the card, was there anything more?
A. No, sir.
Q. Did the registrar ask you any questions?
A. No, sir.
Q. Did he ask you to explain anything?
A. I just filled this card out and then gave it back to him, and he said, "That's all right," and that's all that was—

Mr. Dunbaugh: Would the court reporter attach "P-22" to the deposition? I have no further questions.

By Mr. Kron.

Q. Mr. Lee, is this the first time that you registered in this parish?

[fol. 1061] A. Yes, sir.

Q. You have not registered before?

A. Not in this parish.

Q. Where had you been registered?

A. Greensburg.

Q. In Louisiana?

A. In Louisiana, yes, sir.

Q. All right, and when did you register over there?

A. Well, I—

Q. How long ago was that, do you remember?

A. No, sir, I sure don't.

Q. When you went in to register in this parish, did you have your old registration card with you?

A. Yes, sir.

Q. Did you give that to the registrar, or did you show him, or tell him that you had been registered in Greensburg?

A. I told him I had been registered in Greensburg. I'm—I believe I'm—I wouldn't be for sure that I had give it to him but I had the old registration. I guess I still have it.

Q. You did tell him that you were previously registered in Greensburg?

A. Yes, sir.

Q. That's all.

By Mr. Dunbaugh:

Q. Who was the registrar when you registered in Greensburg?

[fol. 1062] A. Let me see. That's—I'm not for sure but I believe she was a Mrs. Hutchison. I'm not for sure but I'll put it that way.

Q. It wasn't a Mr. Nesom?

A. No, sir.

Q. What did you have to do to register there?

A. Just fill out the—just fill the registration card out is all there was—

Q. I have nothing further.

Mr. Kron: That's all.

Witness excused at 1:29 P. M.

[fol. 1063]

PLAINTIFF'S EXHIBIT No. 101

MINUTES OF MEETING
LOUISIANA JOINT LEGISLATIVE COMMITTEE
BATON ROUGE, LOUISIANA

October 29, 1958

The Louisiana Joint Legislative Committee was called to order by Chairman W. M. Rainach on October 29, 1958 in Committee Room 4 at the State Capitol in Baton Rouge, Louisiana, at 11:00 A.M. Secretary Ford E. Stinson called the roll.

The following committee members were recorded as present:

Chairman W. M. Rainach, Representative Carroll L. Dupont, Senator Louis H. Folse.

Representative John S. Garrett, Senator H. W. Jones, Secretary Ford E. Stinson, Representative L. D. Napper, Senator B. R. Patton, Senator Alvin T. Stumpf, and General Counsel W. M. Shaw.

Representative E. W. Gravolet, Jr. was recorded as absent.

A motion was offered by Senator Herman Jones, seconded by Senator Alvin T. Stumpf, and unanimously carried that the minutes of the meeting of October 14, 1958 distributed by the Chairman be approved without reading.

The Committee recessed and reassembled in the Executive Mansion with Governor Earl K. Long and Director of Registration, Douglas Fowler, present. A general discussion was held upon the advisability of the Joint Legislative Committee and the State Board of Registration conducting a joint program designed to bring about uniform enforcement of voter qualification laws in the State of Louisiana.

The Governor, the Director of Registration, and the Committee pledged their mutual cooperation in carrying out

such a program. It was mutually agreed that, in order to place the program into effect, a series of conferences would be held in each Congressional District of the State as rapidly as feasible, and that the State Director of Registration, the Committee, and all state, district, and local officials concerned with registration in each Congressional District be invited to the Conference for the District. As soon as the district conferences are completed, follow-up activities would be undertaken in the individual parishes as required.

There being no further business, the meeting was adjourned.

Ford E. Stinson, Secretary  W. M. Rainach, Chairman

[fol. 1064]

PLAINTIFF'S EXHIBIT No. 102

## DISTRICT-WIDE CONFERENCE ON UNIFORM ENFORCEMENT OF LOUISIANA VOTER QUALIFICATION LAWS

SPONSORING GROUPS: The Louisiana Joint Legislative Committee
The Louisiana Board of Registration

AGENDA

1) Registration.
2) Introduction of Officials
3) Federal Constitutional and Statutory Provisions Affecting the Administration of State Voter Qualification Laws and Jurisprudence Relative Thereto.
4) Constitutional and Statutory Provisions of the State of Louisiana Governing Voter Qualifications and Jurisprudence Relative Thereto.
5) Legal Duties of Registrars of Voters, and Other Public Officials in Connection with the Administration of Louisiana Voter Qualification Laws.

[fol. 1065]

PLAINTIFF'S EXHIBIT No. 106

# MINUTES
# FIFTH CONGRESSIONAL DISTRICT CONFERENCE ON UNIFORM ENFORCEMENT OF LOUISIANA VOTER QUALIFICATION LAWS

January 8, 1959

SPONSORING GROUPS: The Louisiana Joint Legislative Committee
The State Board of Registration

The Louisiana Joint Legislative Committee and the Director of the State Board of Registration held a joint conference with public officials of the Fifth Congressional District on January 8, 1959, at Monroe, Louisiana, in the Court Room of the Ouachita Parish Courthouse. The Meeting was held for the purpose of formulating plans to bring about uniform enforcement of the voter qualification laws of the State of Louisiana.

The following were recorded as present:

*Committee Members*:
Chairman W. M. Rainach, Senators H. W. Jones, B. R. Patton, and Louis H. Folse, Representatives John S. Garrett, and Ford E. Stinson.

(Committee Members Absent:
Senator Alvin T. Stumpf, and Representatives E. W. Gravolet, Jr., Carroll L. Dupont, and L. D. Napper.)

*Committee Counsel*:
W. M. Shaw

*Director, State Board of Registration*:
Douglas Fowler, and Mrs. Harris, Secretary

*Attorney General, State of Louisiana*:
Jack P. F. Gremillion

*First Assistant Atty. Gen., La.*:
George Ponder

*Registrars of Voters, Fifth Congressional District*:
Johnie L. Kelly, Caldwell Parish
Mrs. Mary T. Swaggart, Catahoula
Mrs. Myrtle Cole Beard, East Carroll
Mrs. Mary H. Reed, Deputy Registrar, East Carroll
Mrs. W. A. Hatton, Franklin
Mrs. Boudreaux, Assistant, Franklin
Mrs. Estelle Wilder, Jackson
Mrs. J. E. Jones, Lincoln
Miss Katherine Ward, Madison
Mrs. Margaret M. Larche, Morehouse
Mrs. Mae Lucky, Ouachita
Mrs. Mae Morin, Deputy Registrar, Ouachita
Mrs. Lula E. Cheek, Richland
B. W. Berry, Tensas
Woodrow W. Farrar, Union
Mrs. Ora Cameron, West Carroll
Mrs. Margaret Crow, Deputy Registrar, West Carroll

Registrars Absent:
Henry Rucker, Concordia

*District Attorneys, Fifth Congressional District*:
Ragan D. Madden, 3d JD (Lincoln, Union Parishes)
Albin P. Lassiter, 4th JD (Morehouse and Ouachita)
Carey Ellis, Jr., 5th JD (Franklin, W. Carroll, Richland)
Edward Lee, Assistant District Attorney, 5th JD
T. L. Clarke, 6th JD (East Carroll, Madison, Tensas)

[fol. 1066]
(District Attorneys Absent:
D. W. Gibson, 7th JD (Catahoula, Concordia)
C. C. Minard, 28th JD (Caldwell Parish))

*Sheriffs, Fifth Congressional District*:
John W. Gilbert, East Carroll
Jesse J. Riser, Lincoln
C. E. Hester, Madison
Bailey Grant, Ouachita
Jurd G. Stewart, Union

(Sheriffs Absent:
G. E. (Buddy) Erskine, Caldwell
George McGee, Catahoula
Noah W. Cross, Concordia
Hiram B. Waller, Franklin
Lloyd G. Bryant, Jackson
E. L. Hinton, Morehouse
Earl E. Hill, Richland
Elliot D. Coleman, Tensas
J. R. Butler, West Carroll)

*Police Jury Presidents*:
Herman Gibson Concordia
A. J. Riser, Franklin
John A. Mitchell, Lincoln
W. M. Scott, Madison
Ralph Dunn, Morehouse
M. W. Montgomery, Ouachita
E. R. McDonald, Tensas
E. R. Rogers for Dennis Long, Union
H. E. Philley, West Carroll

(Police Jury Presidents Absent:
Ross C. Dark, Caldwell
D. E. Woodin, Catahoula
S. K. Mitchener, East Carroll
J. Earl Alexander, Jackson
J. U. Douciere, Richland)

*Others Present*:
Frances P. Mims, Acting Secretary, Homer, La.
Francis M. Ward, President Fifth Congressional District Assn. of Citizens' Councils, Tallaluh, La.

Vaughn L. Phelps, Secretary, 5th Dist. Citizens' Council, Monroe, La.
Sen. Hubert Sims, Mer Rouge, La.
L. C. Harbin, Lake Providence, La.
Paul R. Davis, Shreveport, La.
L. A. West, Monroe, La.
J. B. Anderson, KNOE-TV, Monroe, La.
Mrs. Katherine Richards, Lake Providence, La.
Mrs. E. H. Johnston, Lake Providence, La.
W. E. Persons, Ferriday, La.
Harry Garland, Opelousas, La.
Jack Womack, Opelousas, La.
Youric Chachere, Opelousas, La.
W. R. Barstow, Opelousas, La.
Mr. Cheek, Rayville, La.
Sam Hanna, News-Star-World, Monroe, La.

[fol. 1067] Chairman Rainach presented the historical background to the program of voter qualification law enforcement, tracing it from the Reconstruction Era to the present date, and outlined the part that the program would play in maintaining the State's separate school system and other domestic institutions and powers. Mr. Rainach used a number of exhibits to illustrate and document his points.

Registration Director Fowler then addressed the group, pledging the full cooperation of his office to the proposed program of voter qualification law enforcement in Louisiana, and listing the following four points of legislation which he feels should be enacted in order to improve the operations of his office and those of the registrars:

1) The working hours of the registrars presently from 9:00 a.m. to 1:00 p.m. and from 2:00 p.m. to 6:00 p.m. should be changed to conform to the hours of most other public offices (8-12: 1-5).

2) The present system of paying one-half of the registrars salaries by the parish police juries and the other half by the State should be changed to a consolidated payment system. Mr. Fowler stressed the difficulties caused by a divided-source system, particularly with reference to income tax withholdings. He recommended that a central

paying system be adopted so that the registrars' incomes would be received from one source. He suggested that this responsibility be assigned to the State Board of Registration, if feasible.

3) The Registrars and the State Board of Registration should be removed by law from politics. He stated that the Board is still operating on the same basic principles as in 1898 when it was first created, and that many efficient registrars were lost due to political pressures being brought to bear, resulting in their removal from office. Mr. Fowler said he felt that the registrars and the Director of Registration could render far greater service if their positions were not so subject to political pressures.

4) Adequate funds should be appropriated for the State Board of Registration so that it could operate properly. He emphasized, "We need funds; we need additional personnel; we need reorganizing."

Chairman Rainach introduced the Honorable Jack P. F. Gremillion, Attorney General, State of Louisiana.

Mr. Gremillion spoke briefly to the group, relating the legal history of his office covering the segregation suits which have been filed in the State up to this time. He expressed the opinion that the offices of the Registrars of Voters of the parishes are extremely important adjuncts to our battle for maintaining a segregated society in the State, and pledged the fullest cooperation of his office to their efforts to operate their offices within the strictest terms of Louisiana laws.

"I believe," he said, "that the time may have come when the Registrars of Voters should be elected by the parish. This may be the answer to many of the problems which the registrars now face."

Following Mr. Gremillion's talk, the Chairman introduced First Assistant Attorney General George Ponder, who likewise pledged the assistance of the Attorney General's office to the Registrars and others who might require such assistance in connection with the fulfillment of their particular official duties.

At this point, Chairman Rainach stated that he felt the state-wide program now getting underway would prove the

key to victory in maintaining our way of life. "Every bit of information from the opposition, indicates that the whole integration battle is being fought primarily for the illegally registered Negro block vote. We used voter qualifica-
[fol. 1068] tion laws in 1898 to clean up our registration rolls, when we faced this problem the first time, and here today we are organizing to use them again for the same purpose," he said.

General Counsel Shaw then discussed federal constitutional and statutory provisions affecting the administration of state voter qualification laws and the jurisprudence relative thereto. Attorney Shaw counseled the registrars to advise the Attorney General, the Joint Legislative Committee, the State Board of Registration, their District Attorneys, Sheriffs, and Presidents of Police Juries of any requests made to them by representatives of the federal "Civil Rights" Commission or other federal agencies. He advised them to require that such requests be placed in writing, that they reply to the written requests only after consulting all legal assistance available to them from the State, and that such replies be placed in writing also, copies being distributed to the same parties to which copies of the request are distributed.

In reply to questions, Mr, Shaw stated that to determine the qualifications of applicants, the registrars could clear their offices and examine only one applicant at a time, under the administrative authority granted them by law. The registrars also could restrict the frequency and number of re-examinations allowed an applicant, after the applicant had been given a reasonable opportunity to qualify and had failed to do so.

Mr. Shaw distributed sets of cards containing 24 constitutional clauses as models for use by the registrars in determining the ability of applicants to interpret the Constitution of the State of Louisiana and the United States, and discussed proper methods for using the cards.

In discussing the requirements that applicants be of good character, Mr. Shaw advised registrars that applicants for registration may be disqualified as unfit characters if they are guilty of concubinage, or if they have illegitimate offspring.

Mr. Shaw enumerated the penalties applying to registrars for failure to enforce the voter qualification statutes, and the penalties against other officials and private persons who violate Louisiana voter qualification and registration statutes, or who swear falsely in connection with the registration of voters. He reviewed the pamphlet, *Voter Qualification Laws In Louisiana*, as a guide for registrars of voters and others in enforcing the law and stated that the pamphlet would be mailed with the minutes to each person attending the meeting or invited to be present.

Attorney General Gremillion asked for permission to interrupt the meeting long enough to announce the necessity for his departure and to say that the Annual Conference of his office and all Louisiana District Attorneys had been set for February 20 in New Orleans. Mr. Gremillion said that the Annual Conference would feature a 2-hour forum, to be conducted under the supervision of District Attorney Thompson L. Clarke, Sixth Judicial District of Louisiana, on the subject of registration laws presently in effect in Louisiana. "The assistance district attorneys can render registrars of voters in their problems will be the primary subject of discission in this field," he stated.

[fol. 1069] Attorney General Gremillion said: "The legal, legislative and executive branches of this State are agreed on seeing that our voter qualification laws are enforced."

Following Mr. Gremillion's departure, Mr. Shaw completed his briefing of registrars concerning the qualifications necessary for voter applicants before they may register to vote in Louisiana. "Complete instructions," he told his audience, "may be found in the pamphlet, *Voter Qualification Laws In Louisiana*."

Chairman Rainach announced that plans are underway for similar hearings in the other congressional districts of of the State, after which the drive would move to the parishes themselves as needed to uniformly enforce Louisiana voter qualification laws and clear the rolls of illegally registered voters in every parish of the State.

The meeting was adjourned at 2:30 p.m.

Ford E. Stinson, Secretary

W. M. Rainach, Chairman

[fol. 1070]

PLAINTIFF'S EXHIBIT No. 108

# MINUTES
# SEVENTH CONGRESSIONAL DISTRICT CONFERENCE ON UNIFORM ENFORCEMENT OF LOUISIANA VOTER QUALIFICATION LAWS

January 28, 1959

SPONSORING GROUPS: The Louisiana Joint Legislative Committee
The State Board of Registration

The Louisiana Joint Legislative Committee and the Director of the State Board of Registration held a joint conference with public officials of the Seventh Congressional District on January 28, 1959, at Lake Charles, Louisiana, in Court Room A of the Annex of the Calcasieu Parish Courthouse. The meeting was held for the purpose of formulating plans to bring about uniform enforcement of the voter qualification laws of the State of Louisiana.

The following were recorded as present:

*Committee Members*: Chairman W. M. Rainach; Secretary Ford E. Stinson; Senators Louis H. Folse, H. W. Jones, B. R. Patton; Representative John S. Garrett.

*Committee Counsel*: W. M. Shaw

(Absent: Senator Alvin T. Stumpf, and Representatives E. W. Gravolet, Jr., Carroll L. Dupont, and L. D. Napper.)

*Director, State Board of Registration*: Douglas Fowler; Secretary to Mr. Fowler, Mrs. Beatrice R. Harris.

*Assistant Attorney General*: Edward M. Carmouche, representing Attorney General Jack P. F. Gremillion.

*Registrars of Voters: Seventh Congressional District.*
M. J. Judice, Acadia Parish
Mrs. Marjorie L. Breaux, Deputy Registrar, Acadia Parish
Mrs. Hazel J. Nixon, Deputy Registrar, Allen Parish, representing Villery Montou.
Mrs. Lillicon M. Cutrer, Calcasieu Parish
Mrs. Ursula Burnett, Beauregard Parish
Miss Wynona Welch, Cameron Parish
Otis Fontenot, Evangeline Parish
Mrs. Bertha Marcantel, Jefferson Davis Parish
Miss Ruby C. Ryder, St. Landry Parish

*District Attorneys*: Bernard N. Marcantel, Allen & Jefferson Davis; Edward Shaheen, Calcasieu & Cameron, was in and out of the meeting but his representative, Fred Selby, was present all time.

(Absent: Bertrand D. DeBlanc, Acadia Parish; Peter S. Anderson, Beauregard Parish; J. Y. Fontenot, St. Landry Parish; L. O. Fusilier, Evangeline Parish.

*Sheriffs*:
Mr. Macilly representing Henry A. Reid, Jr., Calcasieu Parish,
Lee Aucoin representing Frank Cazan Fontenot, Evangeline Parish.

(Absent: Walter V. Larcade, Acadia Parish; Ralph L. Thompson, Allen Parish; Paul N. Stark, Beauregard Parish; O. B. Carter, Cameron Parish; Azenor Buller, Jefferson Davis Parish; D. J. Doucet, St. Landry Parish.)

[fol. 1071] *Police Jury Presidents*:
Marcus Kirk representing M. W. Scanlon, Acadia Parish H. M. Deshotels representing Dan W. Wilson, Evangeline Parish A. B. Mount, President, State Association of Police Juries, Calcasieu Parish.

(Absent: A. E. Sigler, Allen Parish; T. Coleman, Beauregard Parish; Eraste Hebert, Cameron Parish; Glenn I. Golden, Jefferson Davis; Johnnie A. Haas, St. Landry Parish.

*Others:*
P. O. White, Lake Charles Citizens' Council
William R. Tete, Attorney, Lake Charles, Louisiana
William Morgan, Lake Charles, Louisiana
Rex Smelser, Lake Charles, Louisiana
Donald Soileau, Mamou, Louisiana
Gene Hughes, Reporter for the American Press
Mr. Kohnke, Reporter for the American Press

Chairman Rainach opened the meeting at 10:30 A.M. In his opening remarks, he stated that later in the meeting he would present the historical background to the program of voter qualification law enforcement, tracing it from the Reconstruction Era to the present date. He said he intended to outline the part the program will play in maintaining the State's separate school system and other domestic institutions and powers.

Registration Director Douglas Fowler then addressed the group briefly, pledging the full cooperation of his office to the proposed program of voter qualification law enforcement in Louisiana, and listing the following six points of legislation which he feels should be enacted in order to improve the operation of his office and those of the registrars:

1. Office hours of the registrars should be made to conform with present day customs as well as customs of the respective parishes.
2. Adequate provisions should be made for pay of the registrars and the Director of Registration.
3. Salaries should be paid from a centralized office to facilitate deductions, etc. so that registrars may be paid by one check as is any other State employee.
4. Registrars' offices and the Director of Registration should be removed from the political arena, so that the state law can be enforced without political interference.
5. Each parish should have a deputy registrar authorized by law so that in cases of emergencies, such as some parishes have experienced, someone would be

legally authorized and qualified to take over the office.

6. A need for tolerence and understanding of the problems of our registrars by the public is necessary for proper administration of their offices.

[fol. 1072] Upon being introduced, Assistant Attorney General Edward M. Carmouche announced that he was present by request of Attorney General Jack P. F. Gremillion and that he had been instructed to appear in behalf of the Attorney General's office and offer the full facilities of that office to the Seventh District officials in connection with the execution of their responsibilities in the field of voter registration law enforcement.

Mr. Carmouche called the registrars' attention to passage of a law in the 1958 General Session of the Louisiana Legislature directing the Attorney General to advise and defend the registrars in matters involving federal authority, and then read from three opinions rendered by the Attorney General in which he pointed up the responsibility of his office to render all possible legal aid to registrars and others involved in the enforcement of statutes pertaining to voter law enforcement, and in which clarification of statutes affecting voter registration laws was made.

At this point in reply to a question by Mr. A. B. Mount, President of the Calcasieu Parish Police Jury, Mr. Douglas Fowler said; "I would readily agree that the State should continue its present support of the operation cost of the registrars' offices, but the entire supervision should be in the hands of the police juries. Something needs to be done and I believe in home rule. The juries are closer to the problems; they should make policy decisions, with only a power of review being vested in the State."

Mr. Rainach then summarized briefly the opinions presented by Mr. Carmouche:

"1) The Campbell and Campbell opinion says that federal officials who come into your office have a right *under the laws of the State of Louisiana* to examine your voter rolls provided they are registered voters of the State of Louisi-

ana. Such an examination must not interfere with the conduct of your office, and the time permitted for the examination may be fixed at your discretion. If any official or person, however, wishes to photostat your records, he must first secure the signatures of 25 registered voters of the State on a petition to you before you permit him to do so.

"2) Under the Joint Legislative Committee opinion discussed by Mr. Carmouche, the registrar has, under the present law, the right to examine applicants for registration *one at a time privately* if he thinks the situation requires such in order to properly determine the applicant's qualifications. *Only the registrar has the power to determine an applicant's qualifications.*

"3) The Bushnell opinion says that police juries have no authority to *direct* that registrars use the sample constitutional test cards which we have distributed to you here today. They have the right, however, to adopt resolutions directed to their registrars, recommending that they use them, and such recommendations carry great weight, in view of the fact that the police juries appoint registrars, provide their quarters, and in many other ways affect the operations of their offices."

Mr. Rainach then proceeded to discuss the background for the reasons prompting the Committee to hold the various Congressional District meetings and initiate the program for enforcement of voter qualification laws. He traced the origin of voter qualification laws during the Reconstruction Era, which closely parallels our own period, and discussed the part the Committee's program would play in maintaining the State's separate school system and other domestic institutions and powers, emphasizing the necessity for close coordination between all public officials, particularly the registrars of the State, and the citizens themselves. Mr. Rainach used a number of Reconstruction, Communist, N.A.A.C.P., statistical and other exhibits to illustrate and document the following points:

[fol. 1073] 1. Registrars have become critically important officials and they should be helped by other public officials, as well as the general public, since

they have become the focal point of the solution to our problems.

2. According to Communist, NAACP, and Negro publications, the Negro bloc vote is the key objective in the political fight for the balance of power on the national scene. U.S. News and World Report concurs and says the Negro holds 4,000,000 votes throughout the United States.

3. The fight for school integration in the South has shifted from the courts to the political arena, from legal moves to a fight for the votes of Negro masses who must be fully registered before their full political power can be brought to bear.

4. Our chief enemy, who is creating the struggle and causing strife between the races, is the Communist Party.

5. During the Reconstruction Period in 1868, Negroes were voted into state and local offices through the power of Negro ballots, and integrated schools were established in Louisiana under a Reconstructed Constitution adopted by the Negro vote.

6. The Negro population in Louisiana, now 32%, could very easily shift the balance of Louisiana political power in the direction that it shifted during the Reconstruction Era, if Negroes are permitted to register without regard to qualifications provided by law.

7. In 1897, our forefathers in Louisiana started a program of voter qualification law enforcement, knowing that such a program would provide the solution to their problems.

8. Louisiana is now operating under the Constitution of 1921, and the voter qualification laws contained in our present Constitution, which were handed down to it from the Constitution of 1898, are adequate to solve our present problems, if they are uniformly enforced without distinctions as to persons.

In closing, Mr. Rainach stated, "We will prove that every parish must eventually enforce our voter registration laws. The entire emphasis in the integration struggle is shifting to the field of voter qualification enforcement," he said, [fol. 1074] "and the program we are beginning here today will prove the solution to our problems, not only in this section of our country, but for the entire United States. Our Committee might reduce this entire program to these questions: What is the federal position? What is the State's position? What is YOUR position? And what shall we do?

Committee Counsel W. M. Shaw was introduced at this point, and requested to detail to those present the meaning of federal constitutional and statutory provisions affecting the administration of state voter qualification laws and jurisprudence relative thereto. Mr. Shaw made the following points:

1. Voting is not a right but a privilege. This privilege is provided by the state and not the federal government, whose power is only negative. The federal constitution bans discrimination as to sex, race, color, or previous condition of servitude, and criminal acts of violence in connection with such discrimination, but it does not provide for any federal registration or voting laws, rules or regulations whatever.

[fol. 1075]

2. The federal government has adopted a "Civil Rights" Act, which provides for a trial without jury in criminal contempt of court cases. This and other provisions of the Act are clearly unconstitutional, and it is believed they will be so held when tested.

   Some powers of the Civil Rights Commission are:

   A. The Commission may take testimony of a witness behind closed doors and may release only such testimony, or portion of such testimony, as the commission desires. The witness from whom such testimony was taken may not release his testimony, or any portion of such testimony in

answer to the release of that testimony by the chairman, under penalty of contempt of the Commission. The witness may not have a transcript of his own testimony without permission of the Commission. These provisions are clearly unconstitutional.

B. By law, the Civil Rights commission must have on file a sworn complaint before the Commission can legally investigate an area. Anyone being investigated by the Commission should exercise his right to a copy of the affidavit.

C. As of June 15, 1958, no written complaints had been registered with the Commission.

D. The Commission was created for a two-year period, which has almost elapsed. The Commission must go before the present Congress and have its time extended if it is to remain in power. This is evidently the purpose of its Alabama investigation, which is before the courts in that state. Its investigations there give the Commission a reason for having its time extended.

3. The Civil Rights Commission can cause no concern for registrars if they adhere strictly to the laws now on our books and do not discriminate in the administration of the laws. There is no need for discrimination on the part of the registrars in order to substantially eliminate the bloc vote—since nature has adequately done this for us.

4. Registrars do not have to worry about the F.B.I., as well as agents of the Civil Rights Commission. They do not have to answer questions put to them by either. If any federal official or employee comes into a registrar's office, the registrar should ask that he put any request in writing and inform him that he will take the written request under advisement. The registrar should then notify the Attorney General, the Director of the Board of Registration, the Joint Legislative Committee, his police jury presi-

dent and his district attorney. F.B.I. Agents usually come in pairs to see a registrar and one takes notes while the other asks questions. In that manner, they have something to back up their work, while the registrar does not unless he follows the same procedure or requires that everything be placed in writing. In case of verbal interviews, the F.B.I. Agent should not be depended upon to give a completely truthful account of the interview.

5. Where federal authority is involved, the Attorney General is now required to advise and defend registrars, as provided by an Act of the 1958 General Session of the Louisiana Legislature.

[fol. 1076] General Counsel Shaw, at the request of Chairman Rainach, next discussed the *State's powers in the field of voter registration.* "To the extent that we enforce all our laws fully and efficiently, is the extent to which we will have a government of which we can be proud," Mr. Shaw told his audience.

Mr. Shaw instructed the registrars on the contents and meaning of the laws providing for qualifications of voters. A booklet written by Mr. Shaw and Senator Rainach entitled *Voter Qualification Laws in Louisiana* was given to each person attending the meeting and Mr. Shaw informed the group that voter registration laws were being honored more in the breach than in the observance.

Points of qualifications given by Mr. Shaw were:

1. Personal appearance by the applicant is necessary for registration.

2. Identification of person and proof of residence is required if the applicant is not known personally by the registrar. The registrar may require that the person have two registered voters of the person's precinct appear to identify him if the registrar is not satisfied with the person's own identification. This procedure is particularly applicable to Negroes, since it is difficult for most registrars, who are white, to differentiate between persons of the Negro race, determine age, etc.

3. The registrar is advised to check over his rolls periodically, since many registrants may have moved or designated an incorrect ward or precinct for his place of residence, and other irregularities may be found in connection with the registration of various applicants.

4. Ability to Read and Write:

   A. The law provides that an applicant must fill out his card with no help from anyone, including the registrar, or reference to any memorandum whatsoever. According to an opinion from the Attorney General, a registrar may designate his own administrative procedure, and accordingly may exclude all but one applicant at a time from his office in order to adequately and uniformly test the applicant's qualifications. As a matter of precaution, it is always best to avoid having too many people in the office at one time.

   B. The number of times an applicant who fails to qualify may reapply is a practical matter for the registrar himself to determine. There are no legal minimum or maximum limits provided.

5. Illiteracy, disability, inability to read and write the English language.

   A. There is a provision under the law whereby an illiterate may register. This provision is made for illiterates of exceptional ability. The law does not intend to permit all illiterates to register.

   B. An illiterate applicant must present two witnesses from the applicant's own precinct who shall sign an affidavit attesting to the truth of the applicant's statements as to his illiteracy.

   C. The above-named applicants, as well as all others, must be of good character and must be able to interpret any clause from the Constitution of Louisiana or the United States.

6. The key to the solution of our whole problem lies in interpretation of the Constitution—our best test of intelligence. In applying this test, the registrars were advised to use a set of 24 model cards distributed to all present.

A. The registrar should fan the cards out and let each applicant choose his own card at random so that there will be no chance of discrimination. Each card lists three questions on the Constitution of Louisiana or the United States. Each test must be administered impartially.

[fol. 1077]

B. The applicant must give a reasonable interpretation of the specific clause of the constitution—not a legal interpretation in which the citation of court cases, etc., would be required. The registrar uses his own discretion in determining whether or not the applicant meets the constitutional test.

C. The federal government gives similar constitutional tests to immigrants who apply for citizenship in the United States.

D. Constitutional tests are a test of native intelligence and not "book learning." Experience teaches that most of our white people have this native intelligence, while most Negroes do not.

E. Upholding the laws of our state will eliminate most local pressures which come to bear upon the registrar. Officials who try to impose their own will upon the registrar in violation to state law will soon be afraid to make such attempts.

F. The people themselves will support the registrars, once they understand what our program is. In fact, they will demand that the constitutional tests be given.

G. Procedures in registering voters must be kept uniform throughout the state. They must be the same in Claiborne as in Orleans.

7. Good character of the applicant must be established. Parents of illegitimate children are ineligible for registration.

   A. The Welfare Department is now reviewing its policies with regard to releasing information to officials for the purpose of establishing the character of parents of illegitimate children on welfare rolls who also are applicants for voter registration.

8. The following persons are ineligible for registration:

   A. Any person confined in a public prison. Such persons may be removed from the rolls. After the person is released from public prison, he may apply for re-registration if he so desires. An established policy should be provided by the state for some official, such as the clerk of court, to notify registrars of persons placed in public prisons.

   B. Inmates of charitable homes. The Soldiers' Home and the United States Marine Hospital at Carville are excepted from this clause.

   C. All interdicted persons.

   D. All notoriously insane persons.

   E. Deserters from military service.

   F. Those dishonorably discharged from military service.

9. On the back of each of the 24 constitutional test cards is a suggested resolution which may be passed by the policy jury of the respective parish, which has the effect of giving support to the registrar. The passage of this resolution is advised, but its passage is not necessary for the registrar to put the constitutional test into effect. Past experience has shown that the people want the police juries to pass this resolution, however.

10. The registrars should not tell an applicant the ward or precinct in which the applicant resides. Remedies are:

    A. The registrar may hang a precinct map in his office to which the applicant may refer.

    B. Other officials may help the applicant before registration outside the registrar's office if they so desire.

[fol. 1078]

11. It is advisable to notify the parish newspapers of changes in registration policy within the parish so that the public may be advised of the changes. The papers should also notify the public to come in early and register, since constitutional tests will take more time for each person than the previous policy. The public should be advised that they should avoid last minute rush periods, which might possibly prevent some applicants from registering at all.

12. Registration laws were put on the books for the purpose of screening, they were meant to keep unqualified people off the rolls, not for putting such people on.

The following questions from the floor were answered by Mr. Shaw and Senator Rainach at this time:

Question: "Is the registrar the only one who judges the test?"

Answer: "The registrar is the only one who can say applicant has passed a test."

Mr. Aucoin: "If the registrar becomes too lenient, who will be in position to see that he does enforce these laws?"

Answer: "Voter qualification laws are laws of the State of Louisiana. There are stiff penalties for violation of the laws. Violations may be prosecuted

by the district attorney or, in the event he fails, by the Attorney General."

Question: "Does your Committee have any authority to enforce the law?"

Mr. Rainach: "No. Our primary objective is to make investigations and recommend legislation. In addition, we are charged with the responsibility of leading the fight against the federal government and private groups who are encroaching upon our constitutional right to run our own state government."

Mrs. Ryder: "I think a Committee of your kind can be of great help to us. We have done wrong, but we can't throw it off by ourselves. Our people will not allow it. I mean those who have been registered for thirty years. How can you remove them from the rolls?" (Meaning those not qualified.)

Answer: "The enforcement of voter qualification laws in the future would, of course, apply only to new registrants. It would not affect unqualified people already registered unless their fitness as qualified voters were challenged under one of the three methods provided by law."

At this point, Mr. Shaw stated that in reference to the Bushnell opinion read by Mr. Carmouche relative to the use of constitutional test cards and the adoption of a resolution by the police juries recommending their use by registrars that Attorney General Gremillion based his opinion upon two misleading questions put to him. He stated that the Attorney General had authorized him to say that there would be a clarification made of the opinion.

"The second thing to be clarified," Mr. Shaw said, "was the question of removal from the rolls of people actually confined in public prison. Persons imprisoned (this includes parish jails), should be removed from the rolls while in prison. They should be notified of their removal from the rolls after they are free, and advised that they may apply for re-registration, unless they have been convicted of a

felony and served a prison term for the same, in which case they lose their franchise."

[fols. 1079-80] Mr. Fowler requested registrars to adhere to the practice of accepting only as many challenges to voters as may be processed within the day, due to the law which requires that all challenges be processed within 48 hours.

He cited the Ouachita Parish case, in which approximately 8,000 challenges were made almost simultaneously, and told of how it became impossible to meet the legal requirements with reference to processing them within the time limit allowed. He stated he felt sure that challengers would refrain from offering a greater number of challenges than the registrar could process within the time limit, if the registrar requested cooperation in this regard.

Chairman Rainach discussed the statistical sheets distributed which shows the number of registered voters by congressional districts and by race.

Following an announcement that the district meetings will be followed up by visits to individual parishes by the Committee along with the Director of the Board of Registration, as developments require, the meeting was adjourned at 1:45 P.M.

Ford E. Stinson, Secretary

W. M. Rainach, Chairman

[fol. 1081]

PLAINTIFF'S EXHIBIT No. 112

31 December 1958

Mrs. Ora Cameron
Registrar of Voters
West Carroll Parish
Oak Grove, Louisiana

Dear Mrs. Cameron:—

There will be a joint meeting of all the Registrars of Voters of the 5th Congressional District and the members of the Louisiana Joint Legislative Committee on Segregation, on Thursday morning, January 8, 1959, at 10:00 A.M. o'clock, in the Courtroom, on the second floor of the Ouachita Parish Court House at Monroe, La.

Your presence is needed and expected at this meeting and it will be agreeable for you to close your office on this date for the purpose of attending this meeting.

The object and purpose of this meeting is to formulate plans in working toward uniformity in the enforcement of the registration laws of our State, and to get better acquainted with the public officials who are members of the Segregation Committee, and to seek their advice and help in our work together, as well as give to the Committee some of the problems that we are now facing.

Looking forward to seeing you at this meeting, and with kind personal regards, I am

Sincerely,

Douglas Fowler,
Director

DF/trk

CC: Senator W. M. Rainach

[fol. 1082] PLAINTIFF'S EXHIBIT No. 123

(Letterhead of Board of Registration, Baton Rouge, State of Louisiana)

January 16, 1961

Dear Registrar:

Because of the new laws affecting registration, which have been passed recently, there seems to be much confusion in registration procedure. We submit to you the steps of procedure which you must follow, for your own protection, and for your assistance in upholding the laws. So that this may be done without discrimination as to race, color, creed, or religion, we submit the following actual working steps:

1. Question applicant as to time in State, Parish and Precinct. Require proof of time of residence, if necessary. Suggested types of proof:

(a) Drivers license bearing name of applicant and showing address to be in state and parish which was issued at least one year prior to date of application for registration. New act provides for parish residence of only six months.

(b) Homestead exemption certificate for previous year.

(e) Selective Service registration card. This can be or gas).

(d) Library card for previous year.

(c) Selective Service registration card. This can be double checked through local Selective Service Board.

(f) Rent receipts for past twelve months.

(g) Deed or contract to purchase home (one year old).

(h) Hunting or fishing license for previous year.

(i) Copy of application for automobile license plates for previous year.

(j) Letter from reputable firm or individual stating that they know the applicant personally and that applicant has lived in the state and parish for the required period as prescribed by law.

(k) If applicant cannot produce any of the above documents or if the Registrar has good reason to doubt that the applicant is the person whom he or she represents himself to be, then the Registrar has the legal authority to require the applicant to produce two registered voters who live within the same precinct as the applicant and require them to sign an affidavit to the effect that the applicant is entitled to register to vote.

[fol. 1083] 2. If applicant has been registered in another parish of the State, take up registration card or certificate from previous parish or have applicant sign affidavit to be returned to former parish for cancellation.

3. Have applicant read a portion of the preamble of the Constitution.

4. Have applicant write from dictation given by the Registrar, a portion of the preamble to the Constitution.

5. Present application to be filled out, after placing applicant in proper ward and precinct. In the case of a married woman, Registrar should instruct her to write her first name, maiden name and married name. Also, applicant should be advised that he or she will be allowed ample time to study and fill out the application form.

6. After applicant fills out application, he returns to counter with application to be checked by Registrar or Assistant as to correctness of application.

7. If correct, applicant shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the Registrar. (All rejected applications should be placed in an alphabetical file so they may be examined in case a court proceeding should be filed by a rejected applicant.)

8. Signs affidavit affirming that he will faithfully and fully abide by all of the laws of the State of Louisiana.

9. Signs permanent registration voting certificate in duplicate, in case of permanent registration, or, where four year registration is in effect, the applicant must sign the proper precinct register and the Registrar or Assistant must write out a registration certificate. (In the case of permanent registration, the card is filled in later and mailed to the address as shown on the registration application.)

* * *

[fol. 1084] OTHER RECOMMENDATIONS

1. Secure from the Clerk of Court, at the end of each month, a list of felony convictions and remove those names who appear on your registration rolls.

2. When the report from the State Department of Health has been received, check your registration rolls for those names who have been reported deceased and remove same from your registration rolls.

3. Canvass registration rolls at least once each year, not later than October 1st, and remove in accordance with the law, all names who have not voted in a four year period (two year period in Orleans Parish). Removal is, of course, after the registrant has been duly notified and the name has been published in the official journal. Each person has the right to appear in person and request re-instatement, providing they do so before the deadline as prescribed by law. This, of course, applies only to parishes who have permanent registration.

4. The law requires that the Registrar, *upon his own initiative,* canvass and remove unqualified persons from the registration rolls. We recommend that this provision be adhered to.

5. Act 254 of the 1960 Legislature also requires the Registrar to canvass his books and write a letter to all persons who have voted absentee for two consecutive years. All persons are required to reply immediately, giving their reason for casting absentee ballots for two consecutive years. If these persons fail to do so, the Registrar may remove their names in the manner prescribed by law.

6. For the purpose of uniformity, any questions pertaining to the daily operations of the Registrars' of Voters offices should be directed to the Board of Registration. Any opinions which may necessitate an answer by the office of the Attorney General, will be directed to the Board of Registration Office, who will, in turn, request the opinion from the Attorney General.

[fol. 1085] 7. That we approach, with reasonableness, the portion of the law that says the Registrar must read and the applicant interpret any section of either constitution to the satisfaction of the Registrar of Voters. This recommendation is made due to many limitations with which we are faced and many complications that can arise therefrom, keeping the thought in mind of the possible discrimination that could be willfully involved in same.

8. Keep Registrar's Office open the same *hours* and *days* as other officials in Court House of his Parish.

9. Affidavit to be used, beginning December 19, 1960, according to Amendment No. 9:

> I do hereby solemnly swear or affirm that I will faithfully and fully abide by all of the laws of the State of Louisiana, so help me God.
>
> .....
>
> Signature of Applicant

* * *

Study these steps carefully and follow them, for it will be to your benefit to do so.

Sincerely yours,

/s/ Hugh E. Cutrer, Jr.
Hugh E. Cutrer, Jr.
Director

HECjr/mmc

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[fol. 1086]

PLAINTIFF'S EXHIBIT No. 134

## REPORT OF SUB-COMMITTEE ON REGISTRATION MEETING OF DECEMBER 14, 1960

## BATON ROUGE, LOUISIANA

• • •

A meeting of the Sub-Committee on Registration was held on December 14, in the Board of Registration Office, 1-B-2 Pentagon Courts, Baton Rouge, Louisiana.

The meeting was called to order at 10:00 A. M. by the Chairman, Mr. Cutrer.

MEMBERS PRESENT:

Honorable Hugh E. Cutrer, Jr., Director of Registration, Chairman

Honorable Ragan Madden, District Attorney, Third District

Honorable Jodie R. Smith, Jr., Registrar of Voters, East Baton Rouge Parish and Chairman, Legislative Committee, Registrars' of Voters Association

Honorable U. Charles Mitchell, Registrar of Voters, Caddo Parish and President, Registrars' of Voters Association

Mrs. Beatrice R. Harris, Secretary to Director of Registration

ALSO PRESENT:

Honorable Douglas Fowler, Custodian of Voting Machines and Past Director of Registration

Honorable Floyd Reed, Attorney-at-Law, representing Registrars' of Voters Association

Honorable Wendell P. Harris, State Senator, East Baton Rouge Parish (Ex-Officio member)

ABSENT:

Honorable Sargent Pitcher, Jr., District Attorney, Nineteenth District

[fol. 1087] The following is a report of the special subcommittee on registration, appointed on December 6, 1960, by Honorable Wendell P. Harris, Vice-Chairman of the Sovereignty Commission.

The history of registration in Louisiana has a very interesting background and goes back to the days shortly after the Civil War. Even though we are primarily interested in what is happening today and what we are going to do about the enforcement of the registration laws of the State of Louisiana at the present time, we believe that it is necessary to take a look at some of the things that have happened in the past, in order to give a true evaluation of our present day status and also in order to cover and explore the effectiveness of the past enforcement of these laws.

Please keep in mind that we must have legal requirements in order for an individual to qualify to vote, but we must also keep in mind that the object and purpose of registration is to permit each qualified person to register, for an individual must register before he will be permitted to vote. In other words, the primary duty of any registrar or deputy registrar of voters is to get the qualified people on the registration rolls and to keep the unqualified people off the registration rolls. We believe it is just that simple.

The history of the laws affecting registration in the State of Louisiana since the days of the Civil War have followed the same trend and, step by step, each law has had the same

[fol. 1088] effect, which is to make the laws of the State of Louisiana, affecting registration, more rigid and the requirements more complicated in order to register to vote. The records reveal that the Registrars of Voters in most of our 64 parishes have done a good job towards the enforcement of these laws and they are to be commended for the effort that they have made and the results that they have obtained in carrying out this work.

Apparently, in 1888, little or no restrictions were made, for, at that time, our registration in Louisiana was as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 254,807 | 126,884 | 127,923 |

This represented a percentage of 50.2 for the colored and 49.8 for the whites.

About 1898, the Constitution was rewritten and in the Constitution was placed what was then known as the "Grandfather Clause". The meaning of the "Grandfather Clause" was simply this: that, unless your grandfather had registered or voted, no member of the family was permitted to register and vote. The effect of this was revealed in the registration figures of 1900, which were as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 130,757 | 125,437 | 5,320 |

This represented a percentage of 95.9 whites and 4.1 colored.

This provision of our Constitution was in force and effect until approximately 1916, when the courts declared [fol. 1089] this particular clause to be unconstitutional. The registration figures of 1920, after the actions of the Court, were revealed as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 260,815 | 257,282 | 3,533 |

giving us a percentage of 98.6 white and 1.4 colored.

This brings us now to the Constitution of 1921, in which Section 17 of Article VIII provides as follows: "The Legislature shall provide for the registration of voters through-

out the State." In addition to requirements provided by the Acts of the Legislature, many other requirements and stipulations in the Constitution had to be complied with.

Our registration of 1928, no doubt, reflects some of the enforcements of the Constitution of 1921, which was revealed as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 379,270 | 376,963 | 2,054 |

giving us 99.4 percent white and .5 percent colored.

In 1940, the registration laws of the State of Louisiana were revised and our registration figures of 1940 were as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 702,545 | 701,659 | 886 |

giving us 99.9 percent white and .1 colored.

[fol. 1090] The impact of the changes in the laws of 1940 was, no doubt, revealed to the registration figures of 1952, which were as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 1,056,720 | 945,038 | 107,844 |

giving us a percentage of 89.8 white and 10.2 colored. This increase, we believe, was brought about by several factors, two of which we will mention. Prior to 1940, the State Democratic Central Committee had the authority to set up certain rules, one of which was termed or called the "White Democratic Primary". A case in point that affected this stipulation was tried in Texas and was held to be unconstitutional and, after this decision was rendered, the State Central Committee of Louisiana removed this provision from their rules and regulations. Another reason, no doubt, was the impact of World War II on general social conditions, not only in Louisiana, but over the entire United States.

The registration figures of 1956 were as follows:

| *Total* | *White* | *Colored* |
|---|---|---|
| 1,057,908 | 896,498 | 161,410 |

giving us a percentage of 84.7 white and 15.3 colored.

Since the report was issued on March 17, 1956, giving us the above figures, the registration situation in the State of Louisiana has more or less stabilized itself percentagewise, for today we have a total of 1,152,151.

[fol. 1091]

| *Total* | *White* | *Colored* |
|---|---|---|
| 1,152,151 | 993,118 | 159,033 |

giving us a percentage of 86.2 white and 13.8 colored.

The above figures tell a story, for they reflect and reveal the fact that the registrars in the 64 Parishes of the State of Louisiana have enforced the laws of our State to the best of their ability, without any job security or protection whatsoever; and please keep in mind that, in many instances, the political feelings and policies of the local officials were very often brought to bear upon the registrars and their deputies.

We would like to call your attention to the fact that, during this four year period of time, from 1956 until 1960, 81,214 colored people became of voting age, when the registration figures of colored people actually declined 2,377. Going further during this four year period, we had 114,629 white people who became of voting age and, during this four year period of time, the white registration increased 96,620.

The two following reports are very interesting and tell a story that, we believe, you will be glad to know:

Report of the Board of Registration as of October 8, 1960, as compared to the report of August 31, 1960:

*White Illiterates*

39 parishes retained the same number

16 parishes decreased in number for a total of 2,007
(15 of these are permanent registration)

9 parishes increased in number for total of 58
(9 of these are permanent registration)

[fol. 1092]

*Colored Illiterates*

42 parishes retained the same number

12 parishes decreased in number for a total of 920
(12 of these are permanent registration)

10 parishes increased in number for a total of 73
(9 of these are permanent registration)

| | | |
|---|---|---|
| TOTAL DECREASE | 2,927 | |
| TOTAL INCREASE | 131 | |
| | | 2,796 OVERALL DECREASE |

2.

| | | |
|---|---|---|
| No. of white adults in Louisiana | 1,252,000 | |
| No. of colored adults in Louisiana | 518,000 | (U. S. Census Bureau, 1960) |
| TOTAL ADULTS IN LOUISIANA | 1,770,000 | (U. S. Dept. of Commerce, 1960) |
| No. of white registered voters in La. | 993,118 | ( |
| No. of colored registered voters in La. | 159,033 | (Board of Registration, Oct., 1960) |
| TOTAL REGISTERED VOTERS IN LOUISIANA | 1,152,151 | ( |
| No. of white adults in La. not registered to vote | 258,882 | |
| No. of colored adults in La. not registered to vote | 358,967 | |
| TOTAL ADULTS IN LOUISIANA NOT REGISTERED TO VOTE | 617,849 | |
| If all white adults were registered, we would have | 1,252,000 | or 70.7% (we now have 86.2%) |
| If all colored adults were registered, we would have | 518,000 | or 29.3% (we now have 13.8%) |
| TOTAL | 1,770,000 | |

[fol. 1093] We fully appreciate the fact that figures and dates are very boring, but we see no way to reveal a true picture of the registration of voters in the State of Louisiana without these figures and without these facts before us. We beg your indulgence and ask that you read and study them very carefully.

[fol. 1094] In 1956, the spotlight was turned on the registration of voters in Louisiana. Now, in 1960, more emphasis is being placed on registration. This condition exists and has been precipitated by circumstances beyond our control. There are those who have the distorted idea that the whole question of segregation can be solved in the registrar's office —but nothing can be further from the truth. Registration is only one phase of the problem. So, briefly, let us review some progress that has been made. In spite of the increase in the population and in spite of all other circumstances that have entered into the picture, your registration of voters in the State of Louisiana seems to have stabilized itself. From 1956, in which you had 84.7 percent white and 15.3 colored, we, today, have 86.2 percent white and 13.8 percent colored. So, with these facts in mind, may we present to you a few recommendations that we believe, if followed, will help—not only our registrars, but our voting public in the State of Louisiana.

(A) That we not expect to accomplish all of our goals and our aims immediately, but follow the plans of the chairman of the Sovereignty Commission and look upon this as a program that can and will be placed in force and effect down through the years and that an orderly procedure be followed at all times.

(B) That patience, tolerance, understanding and kindness be exhibited in every form by our registrars, deputy registrars, and other employees in the Registration Department of the State of Louisiana.

(C) That our registrars and their employees work closely and in harmony with our Sovereignty Commission and that the investigators for the Sovereignty Commission, in turn, work in harmony with our registrars, exhibiting patience, [fol. 1095] tolerance, and understanding and always a help-

ful, rather than a critical, attitude for this committee believes firmly that by working together and pulling together, our goals can be accomplished.

(D) In enforcing the laws of the State of Louisiana, that it can be done without discrimination as to race, color, creed or religion and, in connection therewith, we submit the following actual working steps to be followed by the registrar:

(1) Question applicant as to time in State, Parish and Precinct. Require proof of time of residence, if necessary. Suggested types of proof:

(a) Drivers license bearing name of applicant and showing address to be in state and parish which was issued at least one year prior to date of application for registration. New act provides for parish residence of only six months.

(b) Homestead exemption certificate for previous year.

(c) Receipt for deposit on utilities (electricity, water or gas).

(d) Library card for previous year.

(e) Selective Service registration card. This can be double checked through local selective service board.

(f) Rent receipts for past twelve months.

(g) Deed or contract to purchase home (one year old).

(h) Hunting or fishing license for previous year.

(i) Copy of application for automobile license plates for previous year.

[fol. 1096]

(j) Letter from reputable firm or individual stating that they know the applicant personally and that applicant has lived in the state and parish for the required period as prescribed by law.

(k) If applicant cannot produce any of the above documents or if the Registrar has good reason to doubt that the applicant is the person whom he or she represents himself to be, then the Registrar has the legal authority to require the applicant to produce two registered voters who live within the same precinct as the applicant and require them to sign an affidavit to the effect that the applicant is entitled to register to vote.

[fol. 1097]

(2) If applicant has been registered in another parish of the State, take up registration card or certificate from previous parish or have applicant sign affidavit to be returned to former parish for cancellation.

(3) Have applicant read a portion of the preamble of the Constitution.

(4) Have applicant write from dictation given by the Registrar, a portion of the preamble to the Constitution.

(5) Give applicant application to be filled out, after placing him in proper ward and precinct. In the case of a married woman, Registrar should instruct her to write her first name, maiden name and married name. Also, applicant should be advised that he or she will be allowed ample time to study and fill out the application form. Make him feel at ease. Some applicants become very nervous and emotional when they first apply for registration.

(6) After applicant fills out application, he returns to counter with application to be checked by Registrar or Assistant as to correctness of application.

(7) If correct, applicant shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the Registrar. (All rejected applications should be

placed in an alphabetic file so they may be examined in case a court proceeding should be filed by a rejected applicant.)

(8) Signs affidavit affirming that he will faithfully and fully abide by all of the laws of the State of Louisiana.

[fol. 1098]

(9) Signs permanent registration voting certificate in duplicate, in case of permanent registration, or, where four year registration is in effect, the applicant must sign the proper precinct register and the Registrar or Assistant must write out a registration certificate. (In the case of permanent registration, the card is filled in later and mailed to the address as shown on the registration application.)

• • •

## OTHER RECOMMENDATIONS

1. Secure from the Clerk of Court at the end of each month a list of felony convictions and remove those names who appear on your registration rolls.

2. When the report from the State Department of Health has been received, check your registration rolls for those names who have been reported deceased and remove same from your registration rolls.

3. Canvass registration rolls at least once each year, not later than October 1st, and remove in accordance with the law, all names who have not voted in a four year period (two year period in Orleans Parish). Removal is, of course, after the registrant has been duly notified and the name has been published in the official journal. Each person has the right to appear in person and request re-instatement, providing they do so before the deadline as prescribed by law. This, of course, applies only to Parishes who have permanent registration.

4. The law requires that the Registrar, *upon his own initiative,* canvass and remove unqualified persons from the registration rolls. We recommend that this provision be adhered to.

5. Act 254 of the 1960 Legislature also requires the Registrar to canvass his books and write a letter to all per-
[fol. 1099] sons who have voted absentee for two consecutive years. All persons are required to reply immediately, giving their reason for casting absentee ballots for two consecutive years. If these persons fail to do so, the Registrar may remove their names in the manner prescribed by law.

6. With the future aim and goal of arriving at an orderly procedure of registration in the State of Louisiana, we recommend that all Parishes that will, be encouraged and helped to set up a system of permanent registration.

7. That we approach, with reasonableness, the portion of the law that says the Registrar must read and the applicant interpret any section of either constitution to the satisfaction of the Registrar of Voters. This recommendation is made due to many limitations with which we are faced and many complications that can arise therefrom, keeping the thought in mind of the possible discrimination that could be willfully involved in same.

8. Keep Registrar's Office open the same *hours* and *days* as other officials in Court House of his Parish.

9. Affidavit to be used, beginning December 19, 1960, according to Amendment No. 9:

> I do hereby solemnly swear or affirm that I will faith-
> [fol. 1100] fully and fully abide by all of the laws of the State of Louisiana, so help me God.

.....

Signature of Applicant

This report respectfully submitted this 21st day of December, 1960.

/s/

.....

HUGH E. CUTRER, JR.
*Chairman*

[fol. 1101]

PLAINTIFF'S EXHIBIT No. 161A

Form LR-17

## AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF BIENVILLE

Personally came and appeared before me Pauline A. Sims (Deputy) Registrar of Voters in and for the Parish of Bienville, State of Louisiana.

J. Roy Caskey and R. L. Taylor, Jr. who being duly sworn, do depose and say:

That they are bona fide registered voters of this Parish, that after reasonable investigation by them, and each of them, and on information and belief, that Annie Barfield, registered from Bienville, La., to whom was issued Regis-
(Municipal number and street, if any)
tration Certificate No. 215, Ward 3, Precinct 1, of this Parish, is illegally registered or has lost his or her right to vote in the Precinct, Ward or Parish in which they are registered, for the following reasons:

Incorrect Application

and should be erased from the official Precinct Register of Ward 3, Precinct 1 that this affidavit is made for the purpose of causing said name to be erased.

/s/ J. ROY CASKEY
/s/ R. L. TAYLOR, JR.

Sworn to and Subscribed
before me, on this 27 day
of September, 1956

/s/ PAULINE A. SIMS
(Deputy) Registrar of Voters

[fol. 1102]

PLAINTIFF'S EXHIBIT No. 162A

Form LR-17

## AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF DESOTO

Personally came and appeared before me A. G. Thorp Notary Public in and for the Parish of DeSoto, State of Louisiana.

H. H. Samuels and P. C. Fair who being duly sworn, do depose and say:

That they are bona fide registered voters of this Parish, that after reasonable investigation by them, and each of them, and on information and belief, that Annie Berdine Williams Adams registered from Ward 4, Pct. 3, to whom
(Municipal number and street, if any)
was issued Registration Certificate No. ..... Ward 4, Precinct 3, of this Parish, is illegally registered or has lost his or her right to vote in the Precinct, Ward or Parish in which they are registered, for the following reasons:

Application incorrect

and should be erased from the official Precinct Register of Ward 4, Precinct 3, that this affidavit is made for the purpose of causing said name to be erased.

/s/ H. H. SAMUELS
/s/ P. C. FAIR

Sworn to and Subscribed
before me, on this 10 day
of Oct., 1956

/s/ A. G. THORP
Notary Public

[fol. 1103] PLAINTIFF'S EXHIBIT No. 163A

Form LR-17

## AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

### STATE OF LOUISIANA—
### PARISH OF EAST FELICIANA

Personally came and appeared before me Henry Earl Palmer (Deputy) Registrar of Voters in and for the Parish of East Feliciana, State of Louisiana.

Richard Kilbourne and Edward Hobgood who being duly sworn, do depose and say:

That they are bona fide registered voters of this Parish, that after reasonable investigation by them, and each of them, and on information and belief, that Hamilton Armstrong, registered from Ethel, La. Ward One, Precinct
(Municipal number and street, if any)
One (1), to whom was issued Registration Certificate No. ....., Ward One, Precinct One, of this Parish, is illegally registered or has lost his or her right to vote in the Precinct, Ward or Parish in which they are registered, for the following reasons:

1. Failed to date application as required by R.S. 18:31, Const. 1921, Art. 8, Sec. 1 (c).
2. Was not required to read or give a reasonable interpretation of any provision in the Constitution of Louisiana or of the United States as provided in R.S. 18:35, Const. 1921, Art. 8, Sec. 1 (c).
3. Received assistance in filling out application to register in violation of R.S. 18:31, Const. 1921, Art. 8, Sec. 1 (c).

and should be erased from the official Precinct Register of Ward One, Precinct One, that this affidavit is made for the purpose of causing said name to be erased.

/s/ RICHARD KILBOURNE
/s/ EDWARD HOBGOOD

Sworn to and Subscribed
before me, on this 13th day
of September, 1958

/s/ HENRY E. PALMER
(Deputy) Registrar of Voters

[fol. 1104]

PLAINTIFF'S EXHIBIT No. 164A

Form LR-17

AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

STATE OF LOUISIANA—PARISH OF JACKSON

Personally came and appeared before me Estelle Wilder (Deputy) Registrar of Voters in and for the Parish of Jackson, State of Louisiana.

R. G. Pipes and Louie C. Boss who being duly sworn, do depose and say:

That they are bona fide registered voters of this Parish, that after reasonable investigation by them, and each of them, and on information and belief, that James W. Dade, registered from Jonesboro, La. B. 261, to whom was issued
(Municipal number and street, if any)
Registration Certificate No. 6, Ward 6, Precinct 4, of this Parish, is illegally registered or has lost his or her right to vote in the Precinct, Ward or Parish in which they are registered, for the following reasons:

Incorrect and/or incomplete application

and should be erased from the official precinct register of Ward 2, Precinct 4, that this affidavit is made for the purpose of causing said name to be erased.

/s/ R. G. PIPES
/s/ LOUIE C. BOSS

Sworn to and Subscribed
before me, on this 3rd day
of Oct., 1956

/s/ ESTELLE WILDER
(Deputy) Registrar of Voters

[fol. 1105]

PLAINTIFF'S EXHIBIT No. 165A

Form LR-17

## AFFIDAVIT IN CASE REGISTRATION OF VOTER IS CHALLENGED

### STATE OF LOUISIANA—PARISH OF RICHLAND

Personally came and appeared before me Lula J. Cheek (Deputy) Registrar of Voters in and for the Parish of Richland, State of Louisiana.

R. W. Anderson and Solon E. Smith who being duly sworn, do depose and say:

That they are bona fide registered voters of this Parish, that after reasonable investigation by them, and each of them, and on information and belief, that Timothy Alexander, registered from Ward 1, Precinct No. 1, to whom was
(Municipal number and street, if any)
issued Registration Certificate No. 290, Ward 1, Precinct No. 1, of this Parish, is illegally registered or has lost his or her right to vote in the Precinct, Ward or Parish in which they are registered, for the following reasons:

Not Legible

and should be erased from the official Precinct Register of Ward 1, Precinct No. 1, that this affidavit is made for the purpose of causing said name to be erased.

/s/ R. W. ANDERSON
/s/ SOLON E. SMITH

Sworn to and Subscribed
before me, on this 21st day
of Sept., 1956

/s/ LULA J. CHEEK
(Deputy) Registrar of Voters

[fol. 1106]

PLAINTIFF'S EXHIBIT No. 250

CORRESPONDENCE IN THE FILES OF THE STATE BOARD OF REGISTRATION RELATING TO THE RESIGNATION OF WINNICE PRATT CLEMENT, REGISTRAR OF VOTERS, WEBSTER PARISH.

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[fol. 1107]

PLAINTIFF'S EXHIBIT No. 250A

COPY

January 27, 1956

To the Honorable Members
of the Police Jury of
Webster Parish:

Whereas, the Police Jury of Webster Parish, did at its last regular meeting, pass a resolution requesting the Registrar of Voters to follow the law as stated in the Constitution of Louisiana, Article VIII, Section 1.

Whereas, we understand that the said Registrar of Voters has stated that the law will be adhered to beginning in January 1957.

Therefore, the Citizens Council of Doyline did, by unanimous vote, resolve that the Police Jury be respectfully petitioned and requested as follows:

1. That the Police Jury demand that said Registrar show cause in writing why the Constitutional requirements for registration should not be followed immediately.

2. That if said Registrar of Voters does not immediately adhere to the law as outlined in Article VIII, Section 1, of the Constitution, that the Police Jury immediately dispatch a request to the Governor of the State that said Registrar be relieved of the duties of office.

Respectfully yours,

[fol. 1108] February 6, 1956

COPY

WHEREAS, many members of the Citizen's Council of Sibley did at its last meeting openly express concern that the Registrar of Voters of Webster Parish had never at any time required them to establish themselves as having an understanding of and loyalty to the American form of government.

WHEREAS, said form of government is a republic of sovereign states with all powers not delegated to the United States by the Constitution, nor prohibited by it to the states, being reserved to the states respectively, or to the people.

WHEREAS, the Constitution of Louisiana did require that said Registrar subscribe to an oath to support the constitution and laws of Louisiana and to discharge and\perform faithfully and impartially the incumbent duties of the Registrar's office according to the best of said Registrar's ability and understanding.

THEREFORE, the Sibley Citizen's Council respectfully requests:

1. That the Honorable Jourors of Webster Parish do take appropriate action at their regular meeting on February 7, 1956 (A) So as to accurately determine whether said registrar's failure to establish the lawfully required mental competence of regis-
[fol. 1109] trants to exhibit an understanding of the duties and obligations of citizenship under a republican form of government has been due to any or all of the following reasons:

   (1.) Unfaithful performance of duties

   (2.) Partiality in preformance of duties

   (3.) Inability to perform duties

   (4.) Lack of understanding of the duties

(B). That the Jury's action require said registrar to show cause in writing as to why she has not exercised the precautions demanded by Article VIII, Section 1 of the Constitution of Louisiana which would prevent illegal or fradulent registrants from becoming qualified to participate in our local, state, and national elections.

Respectfully submitted by

/s/ M. V. McKenzie, Jr.

M. V. McKenzie, Jr. under direction of Sibley Citizen's Council.

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[fol. 1110]

PLAINTIFF'S EXHIBIT No. 250B

COPY

RESOLUTION

WHEREAS, the Webster Parish Police Jury, in regular session convened January 3, 1956, passed a resolution requesting the Registrar of Voters to strictly adhere to the laws of the State of Louisiana, with respect to requirements of qualifications, in registering citizens qualifying to vote, and

WHEREAS, it has been alleged by Citizens Councils of Sibley, Cotton Valley, Sarepta, Dubberly, Shongaloo, McIntyre and Dixie Inn and representatives of Doyline and Leton, that the Registrar of Voters has not heeded the request of the Police Jury, now, therefore,

BE IT RESOLVED, by the Webster Parish Police Jury, that they hereby respectfully request the Board of Registration, composed of the Governor, Lieutenant Governor and Speaker of the House of Representatives, to make an investigation into the matter, immediately, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to Honorable Robert F. Kennon, Governor; Honorable C. E. Barham, Lieutenant Governor; Honorable Clarence

C. Aycock, Speaker of the House of Representatives; Mr. M. V. McKenzie of Sibley Citizens Council; Mr. W. P. Alexander, Cotton Valley Citizens Council; Mr. F. L. Denmon, Sarepta Citizens Council; Mr. Leroy Connell, Dubberly Citizens Council; Mr. W. B. Roseberry, Shongaloo Citizens Council; Mr. D. D. Smith, McIntyre & Dixie Inn Citizens Council; Mr. J. H. Deer, Doyline; Mr. H. H. Johnston, Leton and Mrs. Winnice P. Clement, Registrar of Voters.

The above resolution was unanimously passed on motion of C. K. McWilliams, seconded by Fred W. O'Bier.

/s/ Hazel H. Heflin
Secretary

/s/ J. M. Pearce
President

I, Hazel H. Heflin, Secretary of the Webster Parish Police Jury, certify that the above is a true and correct copy of a resolution passed by said body in regular session convened February 7, 1956.

Given under my hand and seal of office this 10th day of February, 1956.

/s/ Hazel H. Heflin
Secretary, Police Jury of
Webster Parish, Louisiana

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[fol. 1111]

Plaintiff's Exhibit No. 250G

REPORT TO

THE BOARD OF REGISTRATION
STATE OF LOUISIANA

Hon. Robert F. Kennon, Governor
Hon. C. E. Barham, Lt. Governor
Hon. Clarence C. Aycock, Speaker, House of Representatives

Gentlemen:

At the request of the Police Jury of Webster Parish, I conducted an investigation of the office of the Registrar of

Voters in that Parish, Mrs. Winnice P. Clement. This investigation was conducted on Monday, March 11, 1956 in Minden, Louisiana.

The Police Jury resolution of February 10, 1956 charged that Mrs. Clement had failed to heed a resolution of January 3, 1956, requesting that she strictly adhere to the laws of the State of Louisiana with respect to requirements of qualifications in registering citizens qualified to vote.

On March 6, 1956, Mrs. Clement denied in a letter written to the Police Jury that she had failed to adhere to the laws of Louisiana concerning registration of voters and declared that other registrars were handling the problem in the same manner. (Copy of Mrs. Clement's letter enclosed).

Mrs. Clement, under questioning, admitted that this letter had been written by Mr. J. T. Campbell, local attorney, in her behalf.

Under further questioning, Mrs. Clement admitted that she had not been requiring registrants to interpret the constitution as required by law. She further claimed that the District Attorney, L. H. Padgett, Jr., informed her that a person could qualify as a registered voter merely by signing the LR-1. (Original card signed by applicants prior to being listed as a registered voter.)

[fol. 1112] She stated that she made no attempt to test illiterates, except beginning February 23, 1956, when approximately 24 were told they must take constitutional tests and most of these refused to take the tests, leaving her office in protest.

Investigation reveals that Mrs. Clement's office has no record of persons convicted of felonies, etc. She is also apparently somewhat lax in the matter of checking age and residence requirements of prospective registrants.

Mrs. Clement stated that in some cases she was "lenient" with registrants when they advised her that they would lose their jobs if they did not register. She was also lenient, by her own admission, when housewives would phone and state

that servants of friends were registered, and insist that their particular household help be registered.

The Registrar cited a case where she had been abused by an applicant seeking to have his LR-1 filled out by his wife. The man used profane language and reminded her that he "didn't have all that trouble when he went to pay his taxes".

"What could I do but let his wife fill out his card," Mrs. Clement said.

She also charged that she did not get full protection from the Sheriff's office, charging that on one occasion, she was insulted by a prospective registrant and that when she insisted that the person be ejected from her office, that a deputy merely sat down in her office, keeping the person under observation.

Mrs. Clement was questioned concerning newspaper articles in the Shreveport Times and the Baton Rouge State-Times which were published March 8, 1956. She said that the stories as written, conveyed substantially the information she wanted conveyed to the public. (These clippings are enclosed).

[fol. 1113] SUMMARY: On the whole the office is not administered less efficiently than some 15 or 20 other registration offices. There is, however, more friction and tension between the Registrar and the Police Jury than exists in any other office in the State. Mrs. Clement charged that the current president of the Police Jury, Mr. J. M. Pearce, would like to have her job. A check with other leading citizens in the Parish reveals that there may be some substance to this, but that has no bearing on the conduct of her office.

She does seem to lack courage to handle a job which in her particular parish, seems destined to become even more subject to pressure and criticism than at the present time.

The manner in which she handled her interviews with the press and with the Police Jury does indicate that she is not overly cooperative at this time.

In my opinion, the Webster Parish Police Jury should be polled on the matter and if they desire to have her removed

for cause, they should remove her. If they feel that she can perform her duties in the manner they suggest, then they should retain her.

Judging the case individually for Webster Parish, they have technical grounds for her removal.

Respectfully submitted,

David Reynaud,
Director

Encl. Copies: Resolutions, Webster Parish Police Jury
Resolutions, Citizen's Councils
Newspaper clippings

State Times 3/8/54

# 'Black Code' Keeps Whites Off Vote Roll

MINDEN—Two dozen prospective white voters have been denied the right to register as voters because they could not interpret the federal constitution and the woman registrar of Webster Parish says she took the action under her policy of "only being fair" to both Negroes and whites.

The policy of Mrs. Winnice J. Pratt has aroused the ire of both Webster Parish in which she serves as registrar and the pro-segregation Citizens Councils of Louisiana.

The parish police jury and several chapters of the Citizens Councils complained about Mrs. Pratt's requirement that both whites and Negroes interpret the Constitution before they become voters.

They said she showed favoritism to Negro registrants, a charge she denied. And they got Gov. Robert Kennon to ask the state registration director, David Raynaud, to investigate her.

Raynaud said Wednesday night that he is planning to go to Minden Monday to investigate the situation. Several complaints from Webster citizens [illegible] warded to him by the [illegible] office, he said.

[illegible] said they never [illegible] said they wanted her to stop [illegible] registration, but "that wasn't hard to figure out."

"They want the Negroes to interpret the Constitution," she said "That's all right and it's the law But if the Negroes have to do it so do the white people. That's only being fair."

A state law, ignored in most parishes, says applicants for registration must be able to read any clause in the state or federal Constitution and "give a reasonable interpretation thereof."

She has refused to register two dozen white men and women since Feb. 23 because they can't interpret the federal document. It was a 100 per cent flunk because that's "all that applied," Mrs. Pratt said.

Only two Negroes tried to register since she was criticized. They were turned down for other reasons.

## 'STRICT LETTER OF LAW'

# Turns Down Registration Bids Of 24 White Webster Citizens

Mrs. Winn[illegible] P. Clement, Webster Parish re[illegible] of voters, said today that in [illegible] past two weeks she has turned [illegible] some two dozen prospective [illegible] interpret cause they were un[illegible] institution. sections of the U. [illegible] since Feb. Mrs. Clement said [illegible] has been 23 every would-be v[illegible] not a subjected to the test and [illegible] here single one has passed. [illegible] they

"Some of them have voted [illegible] the all their lives, but some say [illegible] at won't ever try to vote again," [illegible] registrar, who has held [illegible] for 16 years, said. She add[illegible] the voters "don't like it."

Mrs. Clement said that she has been quizzing voters since she was notified by the parish Police Jury to "comply strictly with the law."

The law, ignored in most parishes, says that applicants for registration must be able to read any clause in the state or federal constitutions and "give a reasonable interpretation thereof."

The registrar said that, despite the fact not a single voter has been able to interpret the constitution thus far, she assumed that some would. "But it'll certainly cut out a lot of them," she added.

Mrs. Clement has for some time been under fire from parish Citizens Councils, who charged that she was lax in enforcing laws pertaining to voter qualifications, and that she showed favoritism to Negro voters. As a result of these charges, the Webster Parish Police Jury adopted a resolution Feb. 7 asking Gov. Robert F. Kennon to launch an investigation of Mrs. Clement. The registrar has categorically denied all of the charges.

Mrs. Clement said that since instructed to follow the letter of the law, she has done so, without showing any favoritism to anyone. She said that no one ever told her they wanted her to stop Negro registration, but "that wasn't hard to figure out."

"They want the Negroes to interpret the Constitution, she said. "That's all right and it's the law. But if the Negroes have to do it so do the white people. That's only being fair."

Since she started her insistence upon the "letter of the law," Mrs. Clement said, not only has every white prospective voter been turned away, but also the only two prospective Negro voters. These, she explained, were never quizzed on the Constitution since they were unable to identify themselves properly, and were told to return with registered voters who could identify them.

"But if they come back," she said, "they'll have to prove themselves qualified, just like anybody else."

Mrs. Clement admitted that her stand has not helped her popularity in the parish, but emphasized that she was only following the orders of the police jury. She said that, despite the pressure on her at the moment, she has no intention of quitting, and "haven't even though about it."

In her written reply to the police jury Tuesday, defending herself against the charges made against her, Mrs. Clement said, in part:

"Since I have been registrar of voters, which has been 16 years, I have always performed the duties of the office conscientiously and to the very best of my ability. I have at all times complied with the laws of this state pertaining to the registration of voters to the best of my understanding."

Mrs. Clement said Wednesday that she will continue to keep asking the prospective voters to interpret the Constitution until she is officially instructed to do otherwise.

[fol. 1116]

PLAINTIFF'S EXHIBIT No. 250M

May 1, 1956

Hon. C. E. Barham
Lt. Governor
State of Louisiana
Ruston, Louisiana

Dear Cap:

Enclosed find original and four copies of a resolution to remove Mrs. Winnice P. Clement, the present registrar of voters for the Parish of Webster.

It is my understanding that Mrs. Clement has agreed to resign, and if she does within the next few days, this resolution will be voided.

I know that you are fully aware of the facts in this case and that you want Mrs. Clement removed.

As soon as I receive these copies with your signature, I will drive over to Franklin for Taddy Aycock's signature.

With kindest personal regards, I am

Sincerely,

David Reynaud,
Director

DR:brh
Encl. (5)

[fol. 1117]

May 3, 1956

Hon. C. C. Aycock, Speaker
House of Representatives
P. O. Box 317
Franklin, Louisiana

Dear Taddy:

Enclosed find original and four copies of a resolution to remove Mrs. Winnice P. Clement, the present registrar of voters for the Parish of Webster.

It is my understanding that Mrs. Clement has agreed to resign, and if she does within the next few days, this resolution will be void.

I know that you are fully aware of the facts in this case and that you want Mrs. Clement removed.

With kindest personal regards, I am

Sincerely,

David Reynaud
Director

DR:brh
Encl. (5)

[fol. 1118]

PLAINTIFF'S EXHIBIT No. 250P

COPY

STATE OF LOUISIANA
BOARD OF REGISTRATION
STATE CAPITOL
BATON ROUGE

May 14, 1956

Hon. John Benton,
Assistant District Attorney
Minden, Louisiana

Dear Mr. Benton:

Enclosed is an official copy of the resolution of the State Board of Registration of this date signed by two members as required by law, which removes Mrs. Winnice P. Clement from the office of Registrar of Voters of the Parish of Webster.

Please sign the enclosed copy of this letter acknowledging receipt of same and return to this office for our files.

Sincerely yours,

David Reynaud,
Director

Received by:

/s/ J. B. BENTON, JR.

May 14, 1956, at 2:30 o'clock P. M.

[fol. 1119]

PLAINTIFF'S EXHIBIT No. 250R

CAMPBELL & CAMPBELL
Attorneys at Law
First National Bank Building
Minden, Louisiana

JOHN T. CAMPBELL
CECIL P. CAMPBELL

May 18, 1956

Mr. Douglas Fowler
State Registrar of Voters
State Capitol
Baton Rouge, Louisiana

Dear Doug:

I note from the press this morning that you have been appointed as State Registrar, succeeding Mr. David Reynaud. It is needless to say that your appointment was a pleasing one to me, and I extend my warmest congratulations to you for having received the appointment, and to the Governor for his choice.

I am sure that you are cognizant of the static we have been having up here concerning our Registrar of Voters, Mrs. Winnice P. Clement. This lady is a widow with a crippled child dependent on her for support. She has been serving as Registrar of Voters for the past 16 years, lacking only 4 years before she will be eligible for retirement. Recently certain groups became highly agitated because of the fact that we had a considerable number of colored persons registered to vote, and demanded her scalp. Because I knew Mrs. Clement was not responsible for this situation, and that the major portion of the colored registration had been encouraged by local politicians, I felt that it was wrong for her to be made the victim. Accordingly, I have done what I could to prevent her removal, and you have undoubtedly observed from the press my activities in her behalf.

At its meeting in April the Police Jury, composed of ten members (six of which had failed re-election and two of which did not seek re-election) adopted a resolution requesting the State Board of Registration to demand her resignation, and if she failed to comply, to remove her. In accordance therewith the State Board notified her that unless she submitted her resignation she would be summarily dismissed. Acting pursuant to that ultimatum she submitted her resignation, effective at midnight on May 15th, which was accepted. Notwithstanding the acceptance of her resignation, the State Board advised me that she must shorten the effective date of her resignation to noon, May 12th, or it would discharge her.

[fol. 1120] Since the effect of such a resignation would mean feeding her to the wolves and deprive her of any chance to have her case reviewed by the new Board which would assume office on May 15th, she declined to comply. Thereupon, on May 14th, at 10:00 o'clock in the morning, Governor Kennon and Lieutenant-Governor Barham, being two of the members of the Board of Registration, passed a resolution summarily removing her from office. I have been successful thus far in preventing the old Police Jury from electing a successor, although they met three days in a row, hoping to be able to do so before they went out of office.

On Wednesday afternoon, Governor Long wired the District Judge, requesting him to hold the matter in status quo until he had an opportunity to investigate the matter, and this I believe will hold the matter up for a short time at least. Since Governor Long's telegram was by him personally, however, I feel that in order to insure that the matter will be held up until an investigation can be had, there ought to be a resolution of the State Board, staying the ouster order of Governor Kennon and Lieutenant-Governor Barham until the Board has had an opportunity to inquire into the matter, and I wrote to Governor Long yesterday in that connection. I am enclosing herewith a copy of my letter to him.

As I explained to the Governor, I have no desire to see Mrs. Clement maintained in her position if she has given cause

for being removed but, on the other hand, if she is being made the victim of conditions not of her making, then in my opinion her removal would be unjust, and the order should be vacated. All I have asked at this time is that the last minute ouster order be held in status quo until the present Board has inquired into the facts surrounding her dismissal, and I will appreciate it if you will do what you can toward securing the adoption of this resolution. The matter is extremely urgent if Mrs. Clement is to have a chance, and I will appreciate it if you will give the matter your immediate attention. Please call me by telephone if you have any questions about the matter.

Very sincerely yours,

/s/ JOHN T. CAMPBELL
John T. Campbell

JTC:as
Encl.

[fol. 1121]

PLAINTIFF'S EXHIBIT No. 262

(Letterhead of The Joint Legislative Committee, State of Louisiana, Baton Rouge)

February 7, 1959

MEMO:

TO: Registrars of Voters—Fourth and Fifth Congressional Districts

Representative Ford E. Stinson telephoned yesterday to say that he and Mrs. Mary K. Bryce, Registrar of Voters, Bossier Parish, had received information indicating that the NAACP was planning a "run" on Mrs. Bryce's office. So far, however, this run has not developed.

Mr. Stinson suggested that I pass this information on to you, so that you can be alerted to any general attempt by the NAACP to register voters in large blocs in violation of our laws.

W. M. Rainach

cc: Members of the Joint Legislative Committee

cc: Honorable Douglas Fowler

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[fol. 1122]

SUPREME COURT OF THE UNITED STATES

No. 1073, October Term, 1963

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LOUISIANA, et al., Appellants,

vs.

UNITED STATES

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ORDER NOTING PROBABLE JURISDICTION—June 22, 1964

Appeal from the United States District Court for the Eastern District of Louisiana.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

Office Supreme Court, U.S.
FILED
MAY 5 1964
JOHN F. DAVIS, CLERK

No. S. 67

# In the Supreme Court of the United States

OCTOBER TERM, 1963

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYCOCK,
J. THOMAS JEWEL, AS MEMBERS OF THE
BOARD OF REGISTRATION OF THE STATE OF
LOUISIANA, AND HUGH E. CUTRER, JR.,
DIRECTOR AND EX OFFICIO SECRETARY OF THE BOARD
OF REGISTRATION OF THE STATE OF LOUISIANA,
Appellants,

v.

UNITED STATES OF AMERICA,
Appellee.

## ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

JACK P. F. GREMILLION,
Attorney General of Louisiana.

CARROLL BUCK,
First Assistant Attorney General.

HARRY J. KRON, JR.,
Assistant Attorney General.

THOMAS W. McFERRIN,
Special Counsel.

No. _____

# In the Supreme Court of the United States

OCTOBER TERM, 1963

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYCOCK,
J. THOMAS JEWEL, AS MEMBERS OF THE
BOARD OF REGISTRATION OF THE STATE OF
LOUISIANA, AND HUGH E. CUTRER, JR.,
DIRECTOR AND EX OFFICIO SECRETARY OF THE BOARD
OF REGISTRATION OF THE STATE OF LOUISIANA,
Appellants,

v.

UNITED STATES OF AMERICA,
Appellee.

## ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

## JURISDICTIONAL STATEMENT

Appellants, State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewel, as Members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, appeal from the order of the United States District Court for the Eastern District of Louisiana, entered February 4, 1964, declaring a portion of Article 8, Section 1(d), as amended in 1960, of the Constitution

of Louisiana to be invalid and unconstitutional, and issuing a permanent injunction against its use in Louisiana. The decree further enjoined the use of a new objective, standard and written "citizenship test" (Art. 8, Sec. 18, La. Constitution) in twenty-one named parishes of the State of Louisiana as to persons of voting age who had the requisite residence in the parish before August 3, 1962 until there had been a general re-registration of all voters in the named twenty-one parishes, or until it has been shown that the interpretation test has lost its discriminatory effect in the parish. They submit this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

## CITATION TO OPINION BELOW

The opinion of the United States District Court for the Eastern District of Louisiana decreeing the constitutional requirement that an applicant for voting registration be able to understand and give a reasonable interpretation of any section of the State or Federal Constitution invalid and enjoining its use was rendered on November 27, 1963 and is reported at 225 F. Supp. 355. The dissenting opinion of District Judge West is reported at 225 F. Supp. 398.

These opinions are reprinted in the appendix hereto at Pages 13 and 117 respectively. No further opinion was rendered with the final order, entered February 4, 1964.

## JURISDICTION

This suit was initiated in the United States Dis-

trict Court for the Eastern District of Louisiana to declare invalid a portion of Article 8, Section 1 of the Louisiana Constitution. It was brought pursuant to 42 U.S.C.A. 1971, 20 U.S.C.A. 2201, 42 U.S.C.A. 1971(d) and 28 U.S.C.A. 1345, and was heard by a three-Judge Court convened under 28 U.S.C.A. 2281 and 2284.

The order of the District Court declaring said provision unconstitutional is dated January 28, 1964 and the time of its entry is February 4, 1964. Notice of appeal to this Court was filed on March 5, 1964. Jurisdiction to the Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C.A. 1253. The following cases sustain this Court's jurisdiction on direct appeal: *Florida Lime & Avocado Growers v. Jacobsen*, 362 U.S. 73; *Kessler v. Department of Public Safety*, 369 U.S. 153.

## CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

Article 8, Section 1(c) of the Constitution of Louisiana and Louisiana Revised Statute 18:35 provide as follows:

"(c) Character and Literacy

. . . Said applicant shall be able to read any clause in this Constitution or the Constitution of the United States and give a reasonable interpretation thereof."

"§ 35. Ability to read and interpret constitution

Applicants for registration shall also be able to read any clause in the Constitution

of Louisiana or of the United States and give a reasonable interpretation thereof."

## QUESTION PRESENTED

Whether Article 8, Section 1 of the Constitution of Louisiana and its implementing statute hereinbefore quoted are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

## STATEMENT OF THE CASE

The United States brought this action against the State of Louisiana and the members of the Board of Registration. It was instituted pursuant to the provisions of 42 U.S.C.A. 1971 as amended, and pursuant to 28 U.S.C.A. 2201 (Declaratory Judgments). Defendants filed a motion to dismiss upon the contention that the complaint failed to raise a substantial constitutional question and failed to state a justiciable controversy within the jurisdiction of the three-Judge Court. This Motion was overruled and the cause was heard before the three-Judge Court. In overruling said motion the Court supported its jurisdiction under 42 U.S.C.A. 1971, 28 U.S.C.A. 1345 and 28 U.S.C.A. 2281. The defendants' motion to dismiss alleged the Court had no jurisdiction to claim the relief prayed for under the Federal Declaratory Judgments Act, 28 U.S.C.A. 2201, but this contention was overruled.

On January 28, 1964 the District Court signed, and on February 4, 1964 entered, a final order declaring the invalidity of the understanding and interpre-

tation test, and an injunction restraining its enforcement, and also an order restraining twenty-one named parishes from enforcing as against future applicants for registration the citizenship test in the absence of a complete re-registration of all voters or some other action which would fully correct the so-called discriminatory effects of the interpretation test.

Judge West wrote a dissenting opinion on December 31, 1963. Notice of appeal was filed in the District Court on March 5, 1964.

## THE QUESTION PRESENTED IS SUBSTANTIAL

The Constitution of Louisiana, Article 8, Section 1(d), as amended in 1960, provides, in part, that a voter shall be able *to understand and give a reasonable interpretation* of any Section of the Constitution of the United States and of the State of Louisiana when read to him by the registrar. Plaintiff, the United States of America, sued to enjoin the use of this "interpretation test" as being discriminatory and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

The majority of the Court below, Judges Wisdom and Christenberry, held the statute was invalid on its face and invalid as administered in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States. The majority opinion further enjoined the use of a citizenship test provided for by Act 62 of 1962 under the authority of Article 8, Section 18 of the Constitution of Louisiana. In twenty-one named parishes as to all persons of voting age who

had the requisite residence in the parish before August 3, 1962, this prohibitory injunction is to remain effective until there has been a general re-registration.

In a strong dissenting opinion Judge West clearly sets forth the position of the appellants in this case. He holds to the view that Louisiana's constitutional interpretation test is a valid exercise of state's authority. The establishment of voter qualifications, which even the majority opinion agrees, is a power reserved to the states themselves.

It is submitted that Judge West's dissent in this case effectively states the appropriate constitutional principles which should decide the issue and demonstrate the result reached in the majority opinion is erroneous. In said dissent Judge West says:

> "While it may well be that there have been many instances of improper application of that test, nevertheless, such improper applications do not, in my opinion, render the laws themselves unconstitutional. If, as I believe to be the case, the constitutional interpretation test is not unconstitutional per se, then only the improper application of the test should have been enjoined."

In addition to the substantive question of the validity of the State constitutional provision this Court should also review the remedy imposed by the Lower Court decree. In enjoining the use of the "citizenship test" the Court has gone beyond its proper function and has in effect decreed the qualification requirements of voters in the State of Louisiana. It is fundamental that the right remains with the states to decide and declare

the requirements for voter registration. By the same token, the right is inherent in the State to establish from time to time valid regulations prescribing minimum standards of qualifications within the scope of this authority.

The findings of fact and conclusions of law in the Lower Court decree go beyond the record in the case. There is no evidence to establish that the citizenship test is an additional burden or is more difficult than prior procedures. It was merely established, as stated by the Court, that the verbal interpretation test had been given in the twenty-one parishes so enjoined and the depositions were submitted purely for the purpose of showing this as a fact. It was not intended nor do these depositions establish that the test is more difficult. On the contrary, each of these depositions show that the new citizenship test is fair, objective, standard and in writing for purposes of maintaining a record of the test and that said test has been indiscriminately administered. This follows precisely the formula described in *Davis v. Schnell*, S.D. Ala. (1949), 81 F. Supp. 872, aff'd memo. 1949, 336 U.S. 933, 69 S.Ct. 749. This citizenship test is a uniform, objective, and standardized test or examination and is in writing so as to provide a record of the determination of whether the applicant had a reasonable understanding and gave a reasonable and correct explanation of simple civic questions pertaining to the government of the United States. The test was provided by the State of Louisiana under its authority to establish a minimum qualification for eligibility to register and vote under State

law. If the irregularity of discriminatory purpose, having previously existed, has been set at rest, and the State by appropriate constitutional and legislative action has changed its policy, then those not already registered cannot be heard to complain.

Percentage statistics standing alone are not a correct measure of ministerial practices. The requirement to register for the purpose of voting requires overt action on the part of the individual and does not carry with it the duty of the registration official to seek out applicants. Many of the percentage statistics quoted in the opinion of the Court contain the implied fallacy that equal numbers of each of the races made application for registration. These facts are not established by the record.

Since the Supreme Court has recognized the power of the states to determine voter qualifications through the use of literacy tests[1] and other means[2], it necessarily follows that the State has the right to correct its practice in accord with the legal requirements set down by the Courts. *Davis v. Schnell*, supra. To prohibit the State from imposing a clearly valid test is to deprive it of its right, recognized many times by the United States Supreme Court. In considering

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[1] *Guinn v. United States*, 238 U.S. 347 (1915); *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959).

[2] *Breedlove v. Suttles*, 302 U.S. 277, (1937). See also *Pirtle v. Brown*, 118 F.2d 218 (6th Cir. 1941), cert. denied 314 U.S. 621 (1941); *Butler v. Thompson*, 341 U.S. 937 (1951), aff'g 97 F. Supp. 17 (E.D. Va. 1951).

the new citizenship test the majority opinion below states:

> "Considering Louisiana's unhappy position as the State with the highest rate of illiteracy and the lowest percentage of citizens with a high school education, the citizenship test can be regarded as a step forward only by those in favor of a severely limited representative government of guardians elected by a small, elite electorate." (225 F. Supp. 392).

Judge West in his dissenting opinion in commenting on this consideration of the citizenship test said:

> "It is too elementary to require citation of authority that a statute properly passed by a State Legislature is presumed to be constitutional until such time as it is found to be unconstitutional."

Indeed, the Court below does not, "touch upon the constitutionality of the citizenship test as a state qualification for voting", but then proceeds to prohibit its use in twenty-one parishes in the State of Louisiana. It is submitted that Judge West's dissent in this case effectively states the appropriate constitutional principles and overcomes entirely the majority opinion's views with respect to the citizenship test and his views should be the correct result herein. The majority opinion says in effect that whenever a state wishes to alter or improve its voting requirements it can do so only if it has a complete re-registration of everyone on the rolls throughout the entire state. This proposition has been rejected by the Fifth Circuit Court of Appeal in *United States v. Atkins*, et al, 323 F.2d 733 (1963). The Atkins case specifically rejects the proposition that

a State may not alter its voting requirements without re-registering all voters in the State. It says:

> "To apply the freezing idea too freely would mean that no state which has discriminated against Negro voting rights in the past could ever tighten its qualifications the least bit. Moreover, when the application under this principle would mean that the board must in the future continue to violate state law as did its predecessors, the principal should be used, *assuming such use could ever be justified*, only if there were no other alternative by which justice could be reached." See *U.S. v. Fox*, E.D. La. (1962) 211 F. Supp. 25; *U.S. v. Ramsey*, S.D. Miss (1963) 8 Race Rela. L. Rep. 156. But see *U.S. v. Penton*, M.D. Ala. (1962) 212 F. Supp. 193.

As Judge West pointed out, the attempt to distinguish Atkins from the present case was erroneous.

Finally, the decision in this case is in direct conflict with the decision of a three-Judge District Court in the case of *United States of America v. State of Mississippi*, et al, C. A. No. 3312, U. S. Dist. Ct., So. Dist. Miss., 1964, involving an identical attack upon a similar Mississippi constitutional and statutory provision with respect to voter qualifications. The majority of this Court, Circuit Judge Cameron and District Judge Cox, upheld the validity of Section 244 of the Mississippi Constitution which provides that as a pre-requisite for registration, persons must read and write and *give a reasonable interpretation of any section of the Mississippi Constitution* and a statement of the duties and obligations of citizenship to the local county regis-

trar on a form provided by the State Board of Election Commissioners.

The Court in this case granted defendants' motions to dismiss on several grounds (1) that as to the State of Mississippi the complaint failed to state a claim against it upon which relief could be granted, (2) that since the defendants, the State Board of Election Commissioners, composed of the Governor, the Secretary of State and the Attorney General of the State of Mississippi, did not under the law have any obligation to enforce any of the statutes under attack that the motion to dismiss as to them was also upheld, and (3) suit was dismissed because the Court failed to find any power in the statute (U.S.C.A. 1971) given authorizing a direct attack by the Indestructible Nation as such as against the Indestructible State as such, saying:

> "An attack against a state aimed at destroying its action in a field committed exclusively to it by the Constitution; to-wit, the state's power to determine and define the qualifications of the electors who may vote not only in State elections, but in Federal elections as well."

It is submitted that this direct conflict of decision between two three-Judge Circuit Courts of the same Federal Judicial Circuit constitutes a substantial question which should be reached by this Court. To say the least, the several questions outlined herein are substantial ones which should be authoritatively determined by the Supreme Court of the United States for the guidance of all Registrars of Voters in Louisiana

to the end that the registration laws of the State of Louisiana may be uniformly and indiscriminately administered throughout the State.

## CONCLUSION

It is respectfully prayed that the Court should review the judgment of the District Court and enter a judgment reversing the decision below.

Respectfully submitted,

JACK P. F. GREMILLION,
Attorney General of Louisiana.

CARROLL BUCK,
First Assistant Attorney General.

HARRY J. KRON, JR.,
Assistant Attorney General.

THOMAS W. McFERRIN,
Special Counsel.

IN THE

# UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

**No. 2548**

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWEL, AS MEMBERS OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA, AND HUGH E. CUTRER, JR., DIRECTOR AND EX OFFICIO SECRETARY OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA,

Appellants,

v.

UNITED STATES OF AMERICA,

Appellee.

Before WISDOM, Circuit Judge, and CHRISTENBERRY and WEST, District Judges.

WISDOM, Circuit Judge:

A wall stands in Louisiana between registered voters and unregistered, eligible Negro voters. The wall is the State constitutional requirement that an applicant for registration "understand and give a reasonable interpretation of any section" of the Constitutions of Louisiana or of the United States. It is not the

only wall of its kind, but since the Supreme Court's demolishment of the white primary, the interpretation test has been the highest, best-guarded, most effective barrier to Negro voting in Louisiana.[1]

When a Louisiana citizen seeks to register, the Parish Registrar of Voters may ask the applicant to interpret the provision, "The Supreme Court and the Court of Appeal, and each of the judges . . . may also in aid of their respective jurisdictions, original, appellate, or supervisory, issue writs of mandamus, certiorari, prohibition, quo warranto, and all other needful writs". Or, the registrar may ask the applicant to interpret a less technical but more difficult provision, constitutionally, such as, "Every person has the natural right to worship God according to the

[1] The following authorities are cited by author and page only:

Carter, The Angry Scar (1959); Caskey, Secession and Reconstruction in Louisiana (1938); 1 Chambers, History of Louisiana (1925); 1 Davis, History of Louisiana (1960); Evans, A Study in the State Government of Louisiana (1910); Ficklen, History of Reconstruction in Louisiana (1910); 4 Fortier, History of Louisiana (1904); Howard, Political Tendencies in Louisiana (1957); Kendall, History of New Orleans (1922); Landry, The Battle of Liberty Place (1955); Lonn, Reconstruction in Louisiana (1918); McGinty, Louisiana Redeemed (1941); Marr, A Historical Review of the Constitutions of Louisiana 1912-13 Proc La. Bar Ass'n; Phelps Louisiana (1905); Powell, History of Louisiana Constitutions, Volume 1, Part 1, Louisiana Law Institute, Projet of a Constitution for the State of Louisiana (1954); Randall, The Civil War and Reconstruction (1953); Shugg, Origins of Class Struggle in Louisiana (1939); Simkins, History of the South (1953); Woodward, Origins of the New South (1951).

dictates of his own conscience."[2] In giving this test, the registrar selects the constitutional section and he must be satisfied with the explanation. In many parishes the registrar is not easily satisfied with constitutional interpretations from Negro applicants.

We hold: this wall, built to bar Negroes from access to the franchise, must come down. The understanding clause or interpretation test is *not* a literacy requirement. It has no rational relation to measuring the ability of an elector to read and write. It is a test of an elector's ability to interpret the Louisiana and United States Constitutions. Considering this law in its historical setting and considering too the actual operation and inescapable effect of the law, it is evident that the test is a sophisticated scheme to disfranchise Negroes. The test is unconstitutional as written and as administered.

## I.

The United States brings this action against the State of Louisiana and the directors and members of the Louisiana Board of Registration. In Section 601 (b) of the Civil Rights Act Congress specifically authorizes such a suit. When an official of the State or of a subdivision of the State is found to have discriminated against United States citizens in violation of 42 U.S.C.A. §1971(a), "the act or practice shall also be deemed that of the State and the State may be joined as a party defendant". 42 U.S.C.A. §1971(c).

[2] Article VII, Section 2 and Article I, Section 4, La. Const. of 1921, LSA.

See *United States v. Alabama*, 1960, 362 U.S. 602, 80 S.Ct. 924, 4 L.Ed. 982; *United States v. Dogan*, 5 Cir. 1963, 314 F.2d 767, 771; *Kennedy v. Lynd*, 5 Cir., 1962, 306 F.2d 222, 228, cert. den'd 1963, 371 U.S. 952, 83 S.Ct. 507, 9 L.Ed.2d 500; *United States v. Atkins*, 5 Cir. 1963, 323 F.2d 733. Section 601 is clearly appropriate legislation under the Fifteenth Amendment, to say nothing of other sources of constitutional authority, and in *United States v. Fox*, E.D.La. 1962, 211 F.Supp. 25, *appeal pending*, the court summarily rejected the State's attack on the constitutionality of the section. See also *United States v. Raines*, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524.

Independently of Section 601(b), "The obligations which [United States] is under to promote the interests of all and to prevent the wrongdoing of one resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court". In re Debs, 1894, 158 U.S. 564, 15 S. Ct. 900, 39 L.Ed. 1092. When the alleged wrongdoing is based on a State law which is contrary to the superior authority of the United States Constitution, the Nation, as well as the aggrieved individuals, is injured. In such a conflict with the State the power of the Nation to protect itself and to go into its own courts to prevent the States from destroying federally protected rights of citizens derived from the Constitution would seem to be implicit in the Supremacy Clause and inherent in our federal system.

When a private litigant invokes the Fourteenth and Fifteenth Amendments, he must be able to show

that State action is involved in the denial of his rights. Anomalously, he cannot sue the State, but must sue agents of the State on the theory that if the act to be enforced is unconstitutional, it is not the act of the State. Ex parte Young, 1908, 209 U.S. 123, 28 S. Ct. 441, 52 L.Ed. 714. This necessary fiction to accommodate the Eleventh Amendment provides no basis for any argument that the State cannot be made a party to this action. Here, no private litigant but the Nation itself is attacking the constitutionality of the laws of Louisiana. Louisiana therefore is the real party at interest and a proper party defendant. The Eleventh Amendment has no application to an action brought by the United States in its sovereign capacity. *Principality of Monaco v. Mississippi*, 1934, 292 U.S. 313, 329, 54 S.Ct. 745, 78 L.Ed. 1282.

The State and its agent, the Board of Registration, have the power and duty to prescribe rules and regulations governing the administration of voter qualification laws in Louisiana.[3] The Board has the power to remove at will any Parish Registrar of Voters.[4]

The court has jurisdiction under 42 U.S.C.A. § 1971, 28 U.S.C.A. §1345, and 28 U.S.C.A. §2281. Since the suit challenges the validity of provisions of the State Constitution and certain statutes and presents substantial constitutional questions, it is a proper case to be heard by a three-judge court. 28 U.S.C.A. §2281.

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[3] Article VIII, Section 18, La. Const. of 1921, as amended in 1962 and LSA-R.S. 18:191.

[4] Article VIII. Section 18, La. Const. of 1921.

## II.

Under the Constitution of Louisiana, registration, which is a prerequisite to voting in any election, is conducted in each parish by a registrar of voters. La. Const. Art. VIII, § 1(b). Except in Orleans Parish, the registrar is appointed by the police jury or other governing body of the parish. La. Const. Art. VIII, § 18; L.S.A.-R.S. 18:1.[5] Permanent registration is mandatory for parishes containing a municipal corporation of more than 100,000 population, and optional for other parishes. L.S.A.-R.S. 18:231, 249.

The Constitution of Louisiana, Article VIII, Section 1(d), as amended in 1960, provides, in part:[6]

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[5] The registrar of voters for the Parish of Orleans is appointed by the Governor. La. Const. of 1921, Article VIII, Section 18, LSA-R.S. 18:1.

[6] As originally adopted in 1921, Article VIII of the Constitution contained two separate interpretation tests. Section 1(c) provided that persons able to read and write "shall also be able to read any clause in this Constitution, or the Constitution of the United States, *and give a reasonable interpretation thereof.*" Section 1(d) provided that persons unable to read or write could register if "able to *understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar. . . ." (Emphasis added.) In 1961, the test in Section 1 (c) was deleted entirely as was the opening phrase of Section 1(d), which had made the latter section applicable only to illiterates. The result is that the test originally designed for illiterates is now the test applicable to every registrant, and the literacy requirements of Section 1(c) (filling out the form, etc.) are now applicable to every applicant.

LSA-R.S. 18:35 repeats verbatim the interpretation test as it appeared in Article VIII, Section 1(c) of the Constitution. Although that language has been deleted from

> "He [a voter] shall be a person of good character and reputation, attached to the principles of the Constitution of the United States and of the State of Louisiana, and shall be *able to understand and give a reasonable interpretation* of any section of either Constitution when read to him by the registrar, and he must be well disposed to the good order and the happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government." (Emphasis added.)

Title 18, Section 35 of the Louisiana Revised Statutes provides, in part:

> "Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof."

The United States attacks the understanding and interpretation requirement as violative of 42 U.S.C.A. § 1971, the Civil Rights Act, and of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

## III.

A. There is no license for the loose statement that in our constitutional system the qualification of voters

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the Constitution it remains in the statute. LSA-R.S. 18:36 repeats the test for illiterates that appeared in Article VIII, Section 1(d) of the Constitution before 1960, and which is now applicable to literate registrants as well. Section 36 has not been changed; thus according to the statute, illiterates can register, although under the Constitution it appears that they cannot register.

is "exclusively" committed to the States. See, for example, *Darby v. Daniel*, S.D.Miss. 1958, 168 F.Supp. 170, 176. More accurately, the States, under Article 1, Section 2 of the Constitution and the Seventeenth Amendment, are free to establish voting qualifications —only if the qualifications do not transgress the United States Constitution. *Ex parte Clarke*, 1879, 100 U. S. 399, 25 L. Ed. 715; *Lassiter v. Northampton County Bd. of Elections*, 1959, 360 U. S. 45, 79 S.Ct. 985, 3 L.Ed. 2d 1072. The books are filled with examples of state election laws and practices found to transgress constitutional guaranties. *Guinn v. United States*, 1915, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340; *Lane v. Wilson*, 1938, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281; *United States v. Classic*, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; *Davis v. Schnell*, 1949, S.D. Ala., 81 F.Supp. 872, aff'd 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. In *United States v. Classic*, a "Louisiana" case, the Supreme Court, in sustaining federal indictments against state election officials for falsely certifying returns in a *congressional* election, said:

> "While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, [citations omitted] this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause

> 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.' See *Ex parte Siebold*, 100 U.S. 371 [25 L.Ed. 717]; *Ex parte Yarbrough, supra*, [110 U.S. 651], 663, 664 [4 S.Ct. 152, 158, 28 L.Ed. 274] * * *."

In *ex parte Yarbrough*, 1884, 110 U. S. 651, 663, 4 S.Ct. 152, 158, 28 L.Ed. 274, cited in *Classic*, the court stated: "[I]t is not true . . . that electors for members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State."

B. Three provisions of the United States Constitution deny plenary and exclusive power to the States to determine voting requirements and give special protection to a citizen against discrimination in the electoral process. Two are mandates expressly prohibiting discriminatory state action. The third is an affirmative grant of power to the United States.

The first and most important is the Fifteenth Amendment. It is clearly and simply expressed: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State *on account* of race, color, or previous condition of servitude". Uncomplicated by phrases freighted with history back to Magna Carta, the Fifteenth Amendment imposes on courts the unshirkable duty of inquiring into legislative purpose and striking down a fair-seeming law that, "on account of race", is in fact a discriminatory device to deprive Negroes of their vote. "The Fifteenth Amendment

. . . clearly shows that the right of suffrage was considered to be of supreme importance to the national government, and was not intended to be left within the exclusive control of the States." Ex parte Yarbrough, 1884, 110 U. S. 651, 4 S. Ct. 152, 28 L. Ed. 274.

Second, the Fourteenth Amendment, primarily by the "equal protection" clause, prohibits discriminatory voting qualifications. *Nixon v. Herndon*, 1924, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759. As the Supreme Court stated in another context, however: Although this is "a more explicit safeguard of prohibited unfairness than 'due process of law' . . . discrimination may be so unjustifiable as to be violative of due process. . . . Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective." *Bolling v. Sharpe*, 1954, 347 U. S. 497, 74 S. Ct. 693, 98 L. Ed. 884.

Third, Article 1, Section 4 of the Constitution empowers Congress to "make or alter" the "[t]imes, Places and Manner of holding Elections for Senators and Representatives . . . prescribed in each State by the Legislature thereof."[7] Such Congressional au-

[7] Art. 1, Section 2, and the Seventeenth Amendment provide that in elections of United States Representatives and Senators "[t]he Electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures". Traditionally, these provisions establish the basis for the proposition that the States alone possess the right to establish qualifications for voting. See Ervin, Literacy Tests for Voters: A Case Study in Federalism, 27

thority extends to registration, a phase of the electoral process unknown to the Founding Fathers but today a critical, inseparable part of the electoral process which must necessarily concern the United States, since registration to vote covers voting in federal as well as in state elections.[8] In Ex parte Siebold, 1880, 100 U.S.

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Duke L. Cont. Prob. 481 (1962); Werdegar, The Constitutionality of Federal Legislation to Abolish Literacy Tests, 30 Geo. Wash. L. Rev. 723 (1962) (Werdegar, however, accepts the constitutionality of a congressional standard for literacy); Ritz, Free Elections and the Power of Congress over Voter Qualifications, 49 Am. Bar Jour. 949 (1963); Note, Use of Literacy Tests to Restrict The Right to Vote, 31 Notre Dame L. Rev. 250 (1956). For recent writings in which the authors conclude that a congressional anti-literacy test statute is constitutional, see Van Alystyne, "The Administration's Anti-Literacy Test Bill", 61 Mich. L. Rev. 805 (1963); Maggs and Wallace, Congress and Literacy Tests, 27 Duke L. & Cont. Prob. 510 (1962); Bement, Congressional Authority to Restrict the Use of Literacy Tests, 50 Cal. L. Rev. 265 (1962); Note, The Constitutionality of Federal Anti-Literacy Test Legislation, 46 Minn. L. Rev. 1076 (1962). See also 1 Crosskey, Politics and The Constitution 524-537 (1953).

[8] The Civil Rights Commission has unanimously found, to the surprise of none, that the registration procedure is the principal means of disfranchising Negroes. 1961 Civil Rights Report 133-38. A leading authority writes: "In the South registration assumes special importance because of the peculiar regional suffrage qualifications. Registration authorities determine whether applicants meet literacy and understanding tests and thus have functioned as the principal governmental agency for Negro disfranchisement. . . . Commonly the statutes attempt to vest finality of decision in the local registration officials and make appeals from their decisions difficult. In states whose suffrage qualifications involve wide discretion in their application, this finality of decision may re-enforce abuses of discretion. . . . Every local registration officer is a law unto himself in determining the

371, 25 L.Ed. 717 the Supreme Court relied on Article 1, Section 4, in sustaining a statute providing, among other things, for federal registrars, supervisors, in registration offices. See also *In re Supervisors of Election*, C.C.Ohio 1878, 23 Fed. Cas. 430 (No. 13628). In *United States v. Manning*, W.D.La. 1963, 215 F.Supp. 272, 277, this Court upheld the registration provisions of the Civil Rights Act of 1960: "[N]othing in the language or history of the Tenth Amendment gives the State exclusive sovereignty over the election processes against the Federal government's otherwise constitutional exercise of a power." See *McColloch v. Mary-*

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citizen's possession of literacy, understanding, and other qualifications. . . . Louisiana's battery of literacy, understanding, and character requirements . . . for the white population mean absolutely nothing. They exist only as a bar to Negro registration." Key, Southern Politics 560, 563, 573 (1949). "[The findings of the Civil Rights Commission] and a survey of cases filed under Section 1971 will make even clearer that it is abuses of discretion by registrars, operating under state laws allowing them to test applicants by subjective standards, that is felt to be the problem." Van Alystyne, Anti-Literacy Test Legislation, 61 Mich. L. Rev. 805, 813 (1953). See also McGovney, The American Suffrage Medley 61, 66-73 (1949); Price, The Negro Voter in the South 14-17 (1957).

"Apathy", an unctuous, self-excusing word comes trippingly to the tongue to rationalize the small Negro registration in some of the parishes in Louisiana. There are undoubtedly a number of reasons besides discrimination for the disparity between Negro and white registration. Thus, in a recent study the authors write: "About 28 per cent of the voting age Negroes in the South were registered to vote in 1958, as compared to about 60 per cent of the voting age whites. It would be a gross error to attribute this substantial disparity to legal and political discrimination alone, though unquestionably official discrimination is a factor,

*land*, 1819, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579 and *United States v. Darby*, 1941, 312 U.S. 100, 124, 61 S.Ct. 451, 85 L.Ed. 609.

The "necessary and proper" clause, Article 1, Section 8, Clause 18, gives Congress full authority to legislate under Article 1, Section 4 (or any other constitutional grant of power); the Fourteenth Amendment, Section 5, specifically grants power to Congress to pass "appropriate legislation" to prevent the denial of equal protection of the laws; the Fifteenth Amendment, Section 2, specifically grants power to Congress

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for Southern Negroes overwhelmingly possess the historical heritage of low social status, relatively small incomes, and limited educations received in inferior schools. These attributes are associated with low voter turnout among *all* populations, regardless of skin color or region. Moreover, the low status, income and education of many southern whites foster racial prejudice. Thus poverty and ignorance may have a double-barrelled effect on Negro political participation by decreasing the Negroes' motivation and ability to participate while increasing white resistance to their doing so. The low voting rates of Negroes in the South may result to a large extent from these factors, as well as from direct political or legal discrimination by the white community." Mathews and Prothro, Political Factors and Negro Voter Registration in the South, 57 Am. Pol. Sc. Rev. 355 (1963). See also Mathews & Prothro, Social and Economic Factors and Negro Voter Registration in the South, 57 Am. Pol. Sc. Rev. 24, 39-44 (1963). But discriminatory registration laws and practices are the most potent weapons to keep Negro voting down. Price, The Negro and the Ballot in the South (1959); Brown, American Suffrage (1960); Mangum, The Legal Status of the Negro (1960). There was no apathy in the Negro electorate in 1897 when Negro registration equalled white registration in Louisiana. And it is a fair inference that Negro interest in voting, accelerated as it must have been by the civil rights explosion of recent years, is no less in 1963 than it was in 1897.

to pass "appropriate legislation" to guarantee that the right to vote shall not be abridged on account of race. *Ex parte Virginia*, 1879, 100 U. S. 339, 25 L. Ed. 676, makes it clear that the "appropriate legislation" clause of the Fourteenth and Fifteenth Amendments is as broad as the "necessary and proper clause", as construed in *McColloch v. Maryland*, 1899, 4 Wheat. 316, 17 U.S. 316, 4 L.Ed. 579. The Supremacy Clause, Article VI, subordinates any conflicting state legislation to congressional legislation. The totality of implied powers these sections grant to Congress are full authority for Congress to enact the Civil Rights Act or other appropriate legislation to regulate elections (including registration) under Article 1, Section 4, and to protect the integrity of the electoral process under the Fourteenth and Fifteenth Amendments. *United States v. Classic*, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; *Burroughs v. United States*, 1934, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484; *Ex parte Yarbrough*, 1884, 110 U.S. 651, 663, 4 S.Ct. 152, 28 L.Ed. 274.

C. "It is said [more often in the past than in recent years, we interpolate] that when the meaning of language is plain we are not to resort to evidence in order to raise doubts. That is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if it exists". *Boston Sand and Gravel Co. v. United States*, 1928, 278 U.S. 41, 48, 49 S.Ct. 52, 53, 73 L. Ed. 170 (Holmes, J.) "Of course one begins with the words of a statute to ascertain its meaning, but one does not end with

them". *Massachusetts Bonding & Ins. Co. v. United States*, 1956, 352 U.S. 128, 138, 77 S.Ct. 186, 191, 1 L. Ed. 2d 189 (Frankfurter, J., dissenting).

In going beyond the verbal surface of the Louisiana interpretation test, we have sought to eschew inquiry into motive. A federal court's proper respect for the State and the judiciary's due regard for the legislative process, among other reasons, compel this restraint. Candor compels the admission however that in this case the line between the *motive* of the lawmakers and the *purpose* of law is blurred. Blur or not, the court cannot, on the one hand, carry out its judicial function of giving effect to legislative intent, or, on the other hand, invalidate the law under a reasonable construction fair to the framers, without first determining the purpose of the law.

As we see it, *purpose* carries the meaning of Coke's "true reason" for the law in the light of the situation at which it is aimed. Heydon's Case, 3 Co. Rep. 7a, 7b, 76 Eng.Rep. 637 (1584). "[L]aws are not abstract propositions. They are expressions of policy arising out of specific situations and addressed to the attainment of particular ends. . . . And so the bottom problem is: What is below the surface of the words and yet fairly a part of them?" Frankfurter, Some Reflections on the Reading of Statutes, 47 Col. L. Rev. 527, 533 (1947). Purpose then, or the "true reason" for the law, determined as objectively as possible, is an essential part of the context within which a law must be read, if the Court is to appraise fairly the validity of the law. Llewellyn stated this well:

> "If a statute is to make sense, it must be read in the light of some assumed purpose. A statute merely declaring a rule, with no purpose or objective, is nonsense. . . . [When there are] ideas consciously before the draftsmen, the committee, the legislature, . . . talk of 'intent' is reasonably realistic; committee reports, legislative debate, historical knowledge of contemporary thinking or campaigning which points up the evil or the goal can have significance." Llewellyn, The Common Law Tradition 374 (1960).

See also *N.A.A.C.P. v. Button*, 1963, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405; *Jordan v. Hutcheson*, 4 Cir. 1963, 323 F.2d 597; Howell, Legislative Motive and Legislative Purpose in the Invalidation of a Civil Rights Statute, 47 Va.L.Rev. 439 (1961).

To Louisianians familiar with the history of their state, it must seem an exercise in futility for the Court to labor the proof of the true reason for the understanding or interpretation test. However, two decisions by three-judge courts in this circuit put a high premium on the Court's ascertaining the true reason for the test. These are *Davis v. Schnell*, S.D.Ala. 1949, 81 F.Supp. 872, aff'd mem. 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093, and *Darby v. Daniel*, S.D.Miss. 1958, 168 F.Supp. 170. In *Davis v. Schnell*, the court, in holding the Alabama understanding clause unconstitutional, based its decision, in good part, on the discriminatory purpose of the law as evidenced by its history. The Court, in *Darby v. Daniel*, held the Mississippi understanding clause constitutional and distinguished *Davis v. Schnell*, in part because the plain-

tiff had failed to show that Mississippi's understanding clause was intended to discriminate against Negroes.

D. It is not unusual for courts to look beyond the face of a statute.

A court may find that a law non-discriminatory on its face is discriminatorily administered. "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons of similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution." *Yick Wo v. Hopkins*, 1886, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220.

The legislative purpose and inevitable effect of a law non-discriminatory on its face may be decisive in determining the unconstitutionality of the law. In *Gomillion v. Lightfoot*, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed. 2d 110, the Supreme Court had before it an Alabama statute which changed the shape of Tuskeegee "from a square to an uncouth twenty-eight-sided figure." No one has ever doubted that a state legislature has the power to determine municipal boundaries, and a long line of cases, going back to *Luther v. Borden*, 1849, 7 How. 1, 12 L.Ed. 581, and continuing through *Colegrove v. Green*, 1946, 328 U.S. 549, 66 S. Ct. 1198, 90 L.Ed. 1432, strongly argued for the conclusion that gerrymandering of election districts was a "political" problem. In holding the law unconstitu-

tional under the Fifteenth Amendment, the Supreme Court based the decision on the statutory objective and the effect of removing from Tuskeegee all save four or five of its 400 Negro voters:

> "When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right. This principle has had many applications. It has long been recognized in cases which have prohibited a State from exploiting a power acknowledged to be absolute in an isolated context to justify the imposition of an 'unconstitutional condition.' What the Court has said in those cases is equally applicable here, viz., that 'Acts generally lawful may become unlawful when done to accomplish an unlawful end, *United States v. Reading Co.*, 226 U.S. 324, 357 [33 S.Ct. 90, 57 L.Ed. 243], and a constitutional power cannot be used by way of condition to attain an unconstitutional result.' *Western Union Telegraph Co. v. Foster*, 247 U.S. 105, 114 [38 S.Ct. 438, [439], 62 L.Ed. 1006, 1 A.L.R. 1278]." 364 U.S. at 347-348, 81 S.Ct. at 130, 5 L.Ed.2d 110.

In *Grosjean v. American Press Co.*, 1936, 297 U. S. 233, 56 S. Ct. 444, 80 L. Ed. 660, a Louisiana law appeared to be simply a graduated tax on newspaper and theatre advertising. Underneath the surface, as the evidence showed, was the legislative purpose to punish New Orleans newspapers for criticism of Governor Huey Long. With nothing in the statute to show the object of the tax and little in the record

to show how it was generated, or how it worked, the Supreme Court went beyond appearances and struck down the tax as in effect an abridgment of First Amendment freedom of the press in violation of the due process clause of the Fourteenth Amendment. Cases too numerous to cite sustain taxation of newspapers. As the Court stated:

> "[The tax] is bad because, *in the light of its history and of its present setting*, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees." 297 U.S. at 250, 56 S.Ct. at 449, 80 L.Ed. 660.

In this case, too, we must go into the "history" and "present setting" of a law non-discriminatory on its face. In doing so, we bear in mind a maxim quoted appropriately in this circuit many times in recent years, a maxim from one of the Supreme Court decisions outlawing the Oklahoma grandfather clause: "[The Constitution] nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." *Lane v. Wilson*, 1939, 307 U.S. 268, 275, 59 S.Ct. 872, 876, 83 L.Ed. 1281.

## IV.

To obtain some necessary pages of history, more valuable then volumes of logic, as Holmes has said, we sacrifice brevity.

The Louisiana interpretation test and its current variant, the citizenship test, are best understood as the latest, but perhaps not final, members of a long, logically connected series of socio-political events. These are rooted in the State's historic policy and the dominant white citizens' firm determination to maintain white supremacy in state and local government by denying to Negroes the right to vote.

A. There was, of course, no problem in colonial and territorial times; the *Codes Noir*, from the 1724 Code to Act 33 of the Territorial Legislature of 1806, disfranchised Negroes. Louisiana became a state in 1812. Its first Constitution set the pattern. It limited the franchise to "free white male citizen[s]" who had paid state taxes or purchased land from the United States within six months prior to the election. For thirty-three years this constitutional limitation kept the ballot chiefly in the hands of landowners and merchants, disfranchised two-thirds of the electorate, and favored New Orleans and the southern parishes over the rest of the State. The Constitution of 1845, in many respects a progressive and broadly democratic document, did away with the tax-paying qualification for voters and established universal suffrage for free white males, regardless of wealth and literacy, but limited the vote to citizens of the United States who had resided in Louisiana for two years, and barred the vote to paupers and men in military service. The next Constitution, adopted in 1852, broadened the suffrage qualifications by lowering the state residential requirement to one year, and introduced registration

of voters, a progressive step many years in advance of most states. This Constitution required registration for Orleans Parish and made it optional with the legislature for the other parishes.

Thus from the *Code Noir* of 1724 until 1864, the organic law of the state ordained that only free white males could vote or hold office. This was in a state where there were thousands of free men of color. Many of these were well educated and owned slaves. Except for suffrage, they possessed the civil and legal rights of white citizens.[9]

The Constitutional Convention of 1864 was the first convention in Louisiana to consider Negro suffrage. During the federal occupation of New Orleans, General N. P. Banks, Commander of the Gulf Department, at the direction of President Lincoln, ordered an election of delegates to a constitutional convention.

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[9] In 1810 New Orleans had 8,001 white persons, 5,727 free persons of color, and 10,824 slaves. *Aggregate Amount of Persons Within the United States in 1810.* (Wash. D.C. 1811) p. 82. A battalion of *gens de couleur* fought at the Battle of New Orleans in 1815. Rousseve, The Negro in Louisiana 24-29 (1937). In 1830 there were 16,710 free persons of color and 109,588 slaves in Louisiana. In 1860 Louisiana free men of color owned real property and slaves valued at $50,000,000. Carter, 253. A person of color was presumed to be free. *Adelle v. Beauregard,* 1810, 1 Mart. (O.S.) 183. Bureau of the Census, Negro Population, 1790-1915 (Wash. 1918). In general see Rousseve, The Negro in Louisiana 24-29, 44-45 (1937); Stahl, The Free Negro in Ante-Bellum Louisiana, 25 La. Hist. Quart. 301 (1942); Woodsen, Free Negro Heads of Families in the United States in 1830 (1925); Burns, The Black Code, 5 Layola L.J. 15 (1923). Historically, therefore, color and not education or anything else has always been determinative of a voter's qualifications in Louisiana.

Negroes could not vote for the delegates and were not represented in the Convention. It was attended by delegates from the federally occupied part of the State only: Orleans and eighteen southern parishes which recognized Michael Hahn as Governor. (Henry W. Allen was the Confederate Governor for the rest of the State.) The Constitution of 1864 abolished slavery and provided for free public schools for all children between six and eighteen years, regardless of race, but retained the previous limitation of suffrage to white males. In the early stages of the convention a strong sentiment existed against granting suffrage to the Negroes, and the delegates actually adopted a resolution declaring that the legislature should never pass a law authorizing Negroes to vote.[10] Later in the session, the delegates established a voting qualification, without amending the suffrage ordinance restricting the vote to white males. This was based on an intelligence test, in the interest of permitting Negro suffrage. The resolution in question authorized the legislature "to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the Government, or by intellectual fitness, may be deemed entitled thereto."[11] The word

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[10] Ficklen, 71; Caskey, 128; Carter, 253-255.

[11] President Lincoln, in keeping with his plan for gradual reconstruction and Negro suffrage by stages, had suggested to Governor Hahn for his "private consideration, whether some of the colored people may not be let in; as for instance, the very intelligent and especially those who have fought gallantly in our ranks." See 1 Fortier, Louisiana (Biographical Edition 1914) 485-7; Carter, 253-255. Presi-

"Negro" was not contained in the resolution as proposed in the Convention or in the ordinance as adopted and, at the time, which was before the adoption of the Civil War Amendments, it was generally thought that Negroes were not citizens. Nonetheless, in the debates over the resolution a number of delegates denounced it as a "nigger resolution", and at least one delegate stalked out of the Convention in protest against Negroes being allowed to vote.[12]

The Constitution of 1864 required the registration of *all* voters in the State. In 1867 the State Board of Registration, making its first report, showed 45,189 white and 84, 527 Negro registrants. The male population of voting age in Louisiana in 1860 was 94,711 whites and 92,502 Negroes.[13]

Racial relations in Louisiana deteriorated rapidly. In the fall of 1865 the Democrats in Louisiana

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dent Lincoln devoted most of his last public address, April 13, 1865, to reconstruction in Louisiana. He urged approval of the new state government as a means of getting the State again into "a proper practical relation with the Union". Congress did not approve it. Evans, 42. The Louisiana Supreme Court held that the Constitution of 1864 and legislation under it was only "provisional in character". *Police Jury v. Burthe*, 1869, 21 La.Ann. 325.

[12] Debates in Convention, 1864, 450; Ficklen, 72.

[13] Report of the Board of Registration to the General Assembly of Louisiana (1869). See Woodward. The Burden of Southern History 99 (1961).

The Civil Rights Act of March 2, 1867, required a registration of all voters of "whatever race, color, or previous condition." No one could be registered, however, "who had participated in the rebellion", and a loyalty oath had to be taken by each registrant.

adopted resolutions "that this is a Government of white people, made and to be perpetuated for the exclusive benefit of the white race", and declared the Constitution of 1864 a creature of fraud.[14] Radical Republicans, refusing to recognize the existing Democratic Government in Louisiana and adopting the Sumner theory that Louisiana was reduced to the status of a territory and as such was entitled to a territorial delegate to Congress, met in convention and called an election for November 6, 1865, to elect a delegate. Henry Clay Warmoth, later Governor, generally regarded in Louisiana histories as a carpetbagger, was elected as the delegate—without opposition.[15] In that election, such as it was, for the first time in the history of the State, Negroes voted freely.

Ominous events progressively increased the friction between the races in the years between the Constitutions of 1864 and 1868. In 1864, relatively peacefully, the Free State Party attempted to establish a government "responsive to loyal white people; the demobilized Confederates, an administration which would restore Louisiana to its ante-bellum condition, except that peonage would replace slavery".[16] By 1865 Confederate veterans had returned in number and in

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[14] Ficklen, 109.

[15] Ficklen, 109-115; 4 Fortier, 94; Bowers, The Tragic Era 363 (Sentry. 1962) See Warmoth's self-serving autobiography. War, Politics, and Reconstruction (1930). Ironically, the election was meaningless, except for its effect on Warmoth's career. Congress did not recognize either Warmoth or the two Louisiana senators.

[16] Shugg, 211.

an orderly election that year defeated the Free Staters and gained control of the legislature, mainly by opposing Negro suffrage.[17] The legislature and police juries promptly enacted new Black Codes which reduced the Negro to a "condition which lay between peonage and serfdom"[18] and intensified the activities of Republicans and Northern radicals for Negro suffrage. July 30, 1866, a bloody riot took place in New Orleans at Mechanics Institute. This "massacre" was provoked, it has been said, by "the attempt of some irresponsible white radicals to transfer the franchise from Confederate veterans to freed men".[19] In 1867 the Louisiana legislature rejected the Fourteenth Amendment. "There followed, as night the day, military reconstruction."[20]

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[17] Shugg, 211; Powell, 369.

[18] Shugg, 213. The most severe laws were enacted by the police juries, not the legislature. Fleming, Documentary History of Reconstruction 279-81 (1906). See also Randall, 724-30.

[19] Shugg, 216; McGinty, 6; 1 Kendall, 305-314; Ficklen, 175; Caskey, 219-31. A. P. Dostie, an active white Free Stater and Republican leader, who campaigned for Congress, unsuccessfully, as the "Robespierre of the Revolution", was killed along with thirty-four Negroes; over 200 were wounded. The *Congressional Report of the Select Committee on the New Orleans Riots* concluded that it was a "massacre" plotted and perpetuated in cold blood. H. R. Rep. 39 Cong. 2d Sess., No. 16 (1866). No historian has endorsed that judgment, Shugg, 217. But see DuBois, Black Reconstruction in America 464 (1935) and Reed, Life of A. P. Dostie 286-330 (1868).

[20] Shugg, 218. See also Howard, 73. "The reconstruction of Louisiana prolonged the civil war between North and South and precipitated within the state first a social revolution and then a counter-revolution. Each phase was marked

In 1868 General Philip H. Sheridan, Commander of the Fifth Military District of Louisiana and Texas, called a constitutional convention to meet the conditions Congress imposed on the former States of the Confederacy: suffrage regardless of race and ratification of the Fourteenth Amendment. In the election of delegates to the convention, Confederate veterans and Democratic officeholders were barred from the polls. This was the first and last Louisiana constitutional convention to which Negro delegates were admitted; the president of the convention and forty-nine of the ninety-eight delegates were Negroes. In the 1868 Constitution Negroes finally received the right to vote and to hold office. This Constitution disfranchised all persons who had participated directly or indirectly in the War[21] on the Confederate side and, pouring salt on open wounds, required, as a condition to voting, a certificate from Confederate soldiers and Democratic officeholders that "the late rebellion" was "morally and politically wrong".[22] The

by a new constitution which changed, directly or indirectly, the dispensation of power." Shugg, 196.

[21] "The new suffrage law was the most stringent, perhaps, in its defranchising clauses to be found in the constitutions of all the Southern states." Evans, 45.

[22] Article 99, in part, provided: "The following persons shall be prohibited from voting and holding any office: . . . All persons who are estopped from claiming the right of suffrage by abjuring their allegiance to the United States Government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the fol-

Constitution of 1868 desegregated the schools, adopted the bill of rights, rejected a literacy test, and prohibited discrimination in public conveyances and places of public accommodation. This was all "that was needed to strengthen the determination of Southern whites to establish white supremacy, at whatever cost. The Constitution of 1868, therefore, instead of closing the breach between whites and blacks, served only to widen it."[23]

As a result of the disfranchisement of many former Confederate soldiers and the enfranchisement of Negroes, the 1868 election resulted in the election of Warmoth as Governor, and of Oscar J. Dunn, a Negro ex-slave, as Lieutenant Governor. Between 1868 and 1896, a number of Negroes held high office in

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lowing: Those who held office, civil or military, for one year or more, under the organization styled 'the Confederate States of America;' those who registered themselves as enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the secretary of state, and it shall be published in the official journal." This Article was amended in 1870 to prohibit only those persons from voting or holding office who had been convicted of treason, or of a crime punishable by imprisonment in the penitentiary.

[23] Powell, 370.

the State: two congressmen, six high state officials, thirty-two state senators, ninety-five state representatives, and one United States Senator, who was not seated;[24] P. B. S. Pinchback served briefly as Governor.

The years from 1864 to 1876 in Louisiana were years of violence and disorder, notwithstanding the presence of federal troops during these years. In 1873 at Colfax, Grant Parish, fifty-nine Negroes and two white persons were killed.[25] After the Colfax riot additional federal troops were sent to Louisiana and stationed at various points to aid officials in keeping order. Louisiana became an armed camp. In 1874 six white Republican officeholders of Red River Parish were killed, after they had surrendered and had agreed to leave the State.[26] Elections were a farce, since "Governor [Kellogg] appointed the registrars, and through them returned his f r i e n d s to the legislature"; "politicians bribed legislators for party and parish favors, and business men and corporations bribed the politicians for e c o n o m i c privileges".[27]

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[24] In 1873 the Kellogg legislature elected Pinchback to the United States Senate. After a contest extending over many years the Senate gave him $20,000 for expenses, but refused to seat him. "[E]ducated mulattoes such as Oscar Dunn and P.B.S. Pinchback [were] a type which was the peculiar product of ante-bellum racial relations in Louisiana." Shugg, 221.

[25] Chambers, 675; Simkins, 287; Lonn, 240-45; Howard, 76; Carter, 202-209.

[26] Lonn, 265-67; 1 Chambers, 682; Simkins, 287; Howard, 76; Carter, 225; Sen. Exe. Doc., 43 Cong., 2 Sess., No. 17, House Repts., 43 Cong., 2 Sess., No. 261, 773-80.

[27] Shugg, 224, 226.

During most of the years between 1866 and 1877 there were two governors and two legislatures. The Republican governors and their elected associates were maintained in office only by the Returning Board and federal troops. Representative white citizens considered it a civic duty[28] to belong first to The Knights of the White Camelia, a secret organization equivalent to the Ku Klux Klan in other states, and, later, to join the White League, a statewide organization which openly advocated white supremacy[29] in a published

[28] "The best men of the State were soon enrolled in its [White League] ranks." Phelps, 376. In 1875, when General Sheridan called the leaders of the White League "banditti", the Catholic Archbishop in New Orleans, the Episcopal Bishop of Louisiana, the Methodist Bishop at New Orleans, the leading Jewish Rabbi and the leading Presbyterian Rector in New Orleans promptly came to their defense in a joint public statement. 4 Fortier, 175. Not long after, the white people in New Orleans stepped to the tune of the "March of those Louisiana Banditti" and danced the "People Rights Quick Step" and the "White League Waltz." Landry, 80.

[29] "It is impossible to estimate the strength or to exaggerate the importance of an organization like the White League. When the New Orleans *Bulletin*, put its enrollment at fourteen thousand men, 'organized and armed', a North Louisiana paper [Minden Democrat, August 29, 1874] claimed that there were at least ten thousand men who belonged to it in that region." Shugg, 230. According to Chambers, the first organization was formed at Opelousas in St. Landry in April 1874. Carter, at 224, states that it was originated in Winn Parish. Cross (2 Biographical and Historical Memories 57. Goodspeed, 1892) claimed it for Caddo. There were a number of organizations, some very loosely organized, which became White Leagues or were associated with *the* White League formed in New Orleans July 2, 1874. For example, there was The White Man's Club or Caucasian Club, organized in Franklin, in St. Mary's Parish by Judge Alcibiade De

platform. September 14, 1874, the Crescent City (New Orleans) White League, which was organized militarily, led by influential citizens, successfully fought a pitched battle in New Orleans against 3000 of Kel-

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Blanc as early as 1867; leagues in Winn and Grant in July 1874; "Bulldoozers" in East Feliciana, West Feliciana, East Baton Rouge, Morehouse, and Ouachita; the Innocents, most of whom were of Italian extraction. The White Leagues were especially strong in Southwest Louisiana, St. Landry, St. Martin, St. Mary, Lafayette, and New Iberia. The New Orleans White League was formed by the same men who had organized the Crescent City Democratic Club in 1868. This was a secret society composed of members of the Chalmette Club, a social club which merged with the Boston Club in 1873. The Crescent City White League, under General Fred N. Ogden, was organized into two regiments of infantry and one regiment of artillery; in the parishes the leagues were often only political clubs. Associated with the Crescent City White League was the First Louisiana Regiment, known as "Louisiana's Own", a secret organization intended to serve as part of Governor McEnery's militia. (The Federal Government recognized William Kellogg and not John McEnery as Governor.) See Landry, 52-68; Lonn, 254-307; 1 Kendall, 359-375; 1 Chambers, 679; Phelps, 376; 4 Fortier, 132-62; 1 Fortier, Louisiana (Biography Ed. 1914) 314, 605-609; Carter, 224-229; 1 Davis, 271; Lestage, The White League and Its Participation in Reconstruction Riots, 18 La. Hist. Quart. 358 (1928); House Repts. 43, Cong., 2 Sess., No. 101, Part ii. 206-7.

Negroes and radical Republicans formed the Loyal League, the Black League (under Caius Caeser Antoine, Negro Lieutenant-Governor), The "Republican Alliances" and other protective organizations, but no organized leagues comparable with the White Leagues. However, in the Loyal League the "strictest discipline was enforced and personal injury, even death, was the penalty for voting a Democratic ticket." Fleming, Documentary History of Reconstruction 350 (1907). 57,300 Negroes were enrolled in 94 clubs, under strict discipline. Ficklen, 186. In 1867 the Union League Clubs of

logg's Negro militia, under 1000 Metropolitan Police[30] under General Longstreet, and several hundred federal troops. The White League took over complete control of the City, then the Capitol of Louisiana, and established in the Statehouse Acting Governor Penn and, later, Governor McEnery. President Grant came to the rescue with sufficient troops to support Governor Kellogg's regime, and the White Leaguers returned to their homes without incident. Some years later, Liberty Place Monument was erected to the memory of the sixteen members of the White League who were killed. September 14 is still officially celebrated annually in New Orleans with public ceremonies as the day the tide turned in Louisiana against the Negroes, carpetbaggers, and scalawags who had been in control of state and local government.[31]

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New York and Philadelphia sent organizers into Louisiana to form Union and Liberty Leagues among the Negroes. Landry, 10; Carter, 52, 62; Lonn, 255-57.

[30] The Metropolitan Police was a military force equipped with guns and cannon, under a commission of five, including three Negroes. Originally it had jurisdiction over New Orleans, Jefferson City, and Saint Bernard Parish. Later, the Governor was authorized to use it anywhere in the State. McGinty, 9; Phelps, 366; 1 Chambers 669.

[31] "The 14th of September, 1874, though apparently barren of results, was really the blow that broke the fetters imposed upon by the Reconstruction Acts of 1867. On January 9, 1877, the people rose again to achieve the freedom of their State, and the chains, half-sundered in 1874, fell to the ground." 4 Fortier, 162. "The Battle of Liberty Place in 1874 changed the tide of opinion, brought the end of Reconstruction in the South, and started the Southern people on their way to the great prosperity which they now enjoy." Landry, 193. These opinions are typical of the views of all the orthodox Louisiana historians.

The Battle of Liberty Place had an important effect on the election of 1876 when the "Redeemers", the White Democrats under Francis T. Nicholls, defeated the Negro Republican candidate, S. B. Packard. Throughout the State, and especially in New Orleans, armed members of the White League policed the election. Governor Nicholls, who ran as the White League's choice but who had also promised Negroes the continued enjoyment of their constitutional privileges, managed to attract enough Negro ballots to win by a substantial, if contested, vote. Governor Kellogg's Returning Board and, later, the Republican Legislature, declared S. B. Packard elected. Nicholls and Packard were each inaugurated. January 9, 1877, the White League, numbering 6000, marched on the Cabildo in New Orleans, where Packard's troops were stationed. The troops surrendered. President Grant, unwillling to take sides because of the pending Hayes-Tilden controversy, ordered the status quo preserved. For four months armed White Leaguers patrolled the streets of New Orleans.[32]

Louisiana was the last of the Southern States to be freed from carpetbag government. In April 1877 President Hayes, as part of the Hayes-Tilden compromise, removed federal troops from Louisiana and recognized the Nicholls administration as the legal government of the state.[33] These events foreshadowed

[32] Landry, 190-192.

[33] Woodward, 23-30; Haworth, The Hayes-Tilden Disputed Election of 1876 (1906); Woodward, Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction

the "lily white" primary, marked the emergence of the Democratic party in the south as "the institutionalized incarnation of the will to White Supremacy,"[34] and led inexorably to the "grandfather" clause, the understanding or interpretation test, and the tricky registration application form as techniques to avoid another Reconstruction.

In 1879, with the State firmly in the control of the White League, another Constitution was adopted. "Its chief objectives apparently, were to put 'white supremacy' back on a firm foundation and bring to an end the oppressive taxation, excessive public spending, and corrupt administration that had plagued

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(1951); Carter, 326-341; Simkins, op. cit. 293-94; 4 Fortier, 191; Randall, 876 (1953); Lonn, 495-525 (1918); McGinty, 55-151. The Commission appointed by President Hayes to investigate the Nicholls-Packard election, declared Nicholls, the Democratic candidate, legally elected, but it gave the electoral votes to Hayes, instead of to Tilden. The Nicholls legislature, which the President's commission recognized, elected Henry M. Spofford to the United States Senate; the unrecognized Packard legislature elected William P. Kellogg. The Senate refused to seat Spofford and seated Kellogg. President Hayes pensioned off Packard as a United States Consul.

[34] Cash, The Mind of the South 128 (1941). For an appraisal of these events which most white Louisianians would regard as unorthodox, see Howard, 77-83. For example: "[T]he Negro became the object of white terror based primarily on political grounds. The inescapable conclusion is that in 1878 the Republican party was not given a free ballot in a fair election. . . . A planter-merchant elite re-established itself in the political sun, but it could stay there only through gaining support of farmer groups and a portion of the Negro groups, or through intimidation of either or both." Howard, 82.

the people for a decade."[35] This was before the understanding clause was invented. The solution for the Negro problem devised by the Convention was to transfer powers to the Governor from the legislature and the police juries (county commissioners).[36] The public accommodations section and most of the provisions in the 1868 Constitution favorable to Negroes were eliminated, but the Constitution of 1879 did not restrict the Negro's right to vote. This may have been because of fear of another federal intervention or because the Negro-White unification movement under General Beauregard had collapsed.[37] Article 188

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[35] Powell, 386; McGinty, 152-180.

[36] "The South had not yet solved the problem of disfranchising the illiterate, ignorant Negro by organic law nonviolative of the Fourteenth and Fifteenth Amendments to the United States Constitution. Until such a solution was arrived at, other means had to be employed—intimidation, permission, subtle suggestion that to vote the white man's ticket was most inconducive to the black man's health, call it what you will. . . . . [The Constitution of 1879 partly met] the threat of a possible return to black domination . . . [by] the constitutional provision which lodged in the hands of the chief executive of the state extraordinary appointive powers. The Governor named all local and state officials whose election by popular suffrage was not specifically enjoined by the Constitution. He appointed the members of the police jury of every parish, a select body of representative citizens upon whom developed the enacting of laws and ordinances affecting parish affairs, as well as the determining of just what the rate of local taxation would be to meet parish needs." 1 Chambers, 697. See also Evans, 53, Woodward, 54.

[37] General P. G. T. Beauregard was chairman of a biracial committee pledged to obtain political equality for Negroes, desegregated public schools, and desegregated places of public accommodation. Williams, The Louisiana Unification Movement of 1873, 2 Jour.Sou.Hist. 349 (1945).

of that Constitution provided, "No qualification of any kind of suffrage or office, nor any restraint upon the same, on account of race, color or previous condition shall be made by law."

In the eighties and until 1898 Negroes in Louisiana continued to vote and to have their vote solicited by all parties. This is not surprising. In 1888 there were 127,923 Negro voters and 126,884 white voters on the registration rolls in Louisiana;[38] the population of the state was about fifty per cent Negro.

In the election of 1892, the Louisiana Lottery issue split both the parties. Murphy J. Foster, a Democrat, was the successful candidate for governor, but the Negro vote was a decisive factor in Governor Foster's favor in many parishes, a disquieting circumstance necessarily regarded as a mixed blessing. In a four-man race, the Democrats polled only 79,388 votes against a total of 98,647 cast for the Republicans and the newly organized people's Populist party.[39] The next election, in 1896, was the turning point that led directly to the disfranchisement of the Negro in Louisiana. In that election, Governor Foster, running for reelection, defeated John N. Pharr the choice of a Fusion party of "National" (Lily white) Republicans, Regular (Radical) Republicans, Populists, and sugar-growers dissatisfied with low tariffs of 1894.

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[38] Statement of Registered Voters in the State of Louisiana.

[39] Report of the Secretary of State 1902, 562.

It was a bitterly fought election.[40] "The main issue . . . was the problem of Negro suffrage."[41] Again the Negro vote was decisive in many parishes. Again, Foster, who ran on a "white supremacy" platform, had his heaviest majority in parishes where the Negro registration was the heaviest.[42]

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[40] "There are those who maintain to this day that John N. Pharr . . . was really elected. . . . The near success [of the Fusion party] . . . shaped [the] future course [of the Democrats] to the end that elections in Louisiana should be determined by the white vote and not black." 1 Chambers, 698. "The contest over the Governorship in 1896 showed that until the Negro vote was eliminated from the electorate, there was always some danger of the election of a Republican Governor, and made apparent to the Democratic leaders the advisability of a new Constitution." Marr, 229, 246. Judge Robert H. Marr was chairman of the Committee of Seventy, which sponsored the "Convention of the White People [Leagues] of Louisiana" in Baton Rouge, August 24, 1874, and constituted an inner circle of the White League. He called the meeting of the White League to order at Henry Clay Statue on Canal Street just before the Battle of Liberty Place.

[41] Howard, p. 99. See also Havard, Herbele, and Howard, The Louisiana Elections of 1960, 23-25 (1963); 1 Fortier, Louisiana (Biographical Edition 1914) 427-432. The legislature had proposed an amendment to the Constitution adding literacy and property requirements for voting. The Fusionists were against it. See Uzee, The Republican Party in the Louisiana Election of 1896, 2 La.Hist. 332 (1961).

[42] Pharr carried all but a few of the white parishes in the State; Foster carried 23 of the 27 parishes in which more Negroes than whites were registered to vote. "The Fusionists were sure the Democrats had stuffed the ballot boxes and insured victory." Howard 99. Every election commissioner in the parishes with Negro majorities was a trusted Foster Democrat. "The Ring opened up a special office in New Orleans to purchase Negro votes at $12.50 per vote."

At this point, the handwriting on the wall could be read as easily in Louisiana as it was read earlier in Mississippi: something had to be done about Negro Suffrage. Local issues or national issues could split the Democratic party wide open, giving the Negroes the balance of power. And the political ecology of

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Uzee, 332. In many parishes the number of votes exceeded the number of registered voters. Uzee, 339. The editor of the New Orleans Times-Democrat was uneasy: "It is true that we win these elections but at a heavy cost, and by the use of methods repugnant to our idea of political honesty and which must, in times, demoralize the people of Louisiana." Times-Democrat, January 11, 1898. Woodward comments: "The remedy, declared the reformers was the disfranchisement of the Negro. . . . 'The remedy suggested here is to punish the man who has been injured . . . to prevent the Democratic election officials from stealing their votes' ". Woodward, 327.

As Woodward, Shugg, Howard, Key, Heard and many others have pointed out, the struggle was not only for white supremacy, but a struggle as to *"which whites* should be supreme." Howard, 105. In Louisiana the predominantly white parishes were fighting, not only Negro domination, but also oligarchic domination of the State by New Orleans and the southern parishes. Pharr's greatest strength lay in the hill-farmer parishes of Northern Louisiana, the Florida parishes, and the sugar-bowl. Foster received 90 per cent of the vote in the delta parishes, from Madison south to West Feliciana, and in the upper Red River parishes of Caddo and Bossier. A similar situation existed in Mississippi and Alabama where the cleavage was sharp between the counties in the Black Belt and those in the Hill country. See Howard, 82-105; Havard, Herbele, and Howard, The Louisiana Elections of 1960, 21-25 (1963); Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). Uzee, The Republican Party in the Louisiana Election of 1896, 2 La. Hist. 332 (1961). See also 1 Fortier, History of Louisiana (Biographical Edition 1914) 429-432.

Louisiana made factionalism inevitable. In Louisiana, as in Mississippi and Alabama, there were, and still are, fundamental social and economic differences between the areas controlled by a plantation economy and the areas controlled by a small farm economy. Two potent additional facts of political life aggravate divisiveness in Louisiana: (1) North Louisiana is solidly Protestant, South Louisiana predominantly Catholic; (2) New Orleans and the rest of the State are like oil and water. See Fenton and Vines, Negro Registration in Louisiana, 51 Am.Pol.Sc.Rev. 704 (1957). By 1898, the moral as well as dollar-and-cents costs of buying victory at the polls were finally more than the purchasers were willing to pay.

Promptly after the important election of 1896, Governor Foster requested the Legislature to call a constitutional convention. Former Governor Nicholls, then Chief Justice of the Supreme Court of Louisiana, called the Convention to order February 8, 1898. Judge Thomas J. Semmes, Chairman of the Judiciary Committee of the Convention and a former president of the American Bar Association, described the purpose of the Convention: "We [meet] here to establish the supremacy of the white race, and the white race constitutes the Democratic party of this State."[43] The Convention of 1898 "interpreted its mandate from the 'people' to be, to disfranchise as many Negroes and as few whites as possible,"[44]

[43] Journal of the Constitutional Convention of 1898, 374.

[44] J. A. Snider (Bossier) summed up the Convention's policy, as one to "disfranchise as many Negroes and as few

The understanding clause, invented by Mississippi a few years before as an alternative to a literacy test, was strongly advocated by many of the delegates.[45]

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whites as possible". New Orleans Times-Democrat, Feb. 8, 1898. A year later, Thomas J. Kernan, one of the distinguished members of the Convention, used these identical words to describe the object of the Convention. Kernan, The Constitutional Convention of 1898. Proc.La.Bar Ass'n for 1899, at p. 51. Conscious of the moral dilemma and the paradox, Kernan also observed: "By the irony of fate, this ultra conservative convention was called upon as its first chief duty to do the most radical thing known to legislation; to falsify the accepted teaching of history and roll back the wheels of political revolution without bloodshed; to take away the ballot from almost, if not quite, a majority of the voters of the State." Ibid. at 56. "Ernest B. Kruttchnitt . . . on taking the chair, stated that the great purpose for which the Convention had been called together was . . . the elimination of the Negro vote, while granting the suffrage to every white man in the State". Maer, 219. There is a brief but excellent account of the convention in Eaton, The Suffrage Clause of the New Louisiana Constitution, 13 Harv.L.Rev. 279 (1899). See also 3 Fortier, Louisiana (Biographical Ed. 1914) 262-264.

[45] There never was any doubt as to the purpose of the "understanding clause" in any of the Southern States which adopted it. Judge S. S. Calhoun, President of the Mississippi Convention of 1890, wrote, in regard to the Convention: "There was revolution. There is no manhood nor honesty in attempting to disguise. Our people said to the miserable hucksters and their ignorant Negro dupes, 'You shall rule a great State no longer. . . . Come down, get out!' And they did come down and get out and the white people of Mississippi took charge of her polity." Calhoun, The Causes and Events that Led to the Calling of the Constitutional Convention of 1890, 6 Miss. Hist. Soc. Pub. 105 (1902). "Of two ills Mississippi chose the lesser. She has exchanged an organic malady for a functional disorder. The Convention substitutes a desiccated for a diseased electorate. . . . Southern

After considerable debate, however, "*persuaded that the understanding clause was 'based on fraud'*, the Louisiana Convention rejected it and invented the 'grandfather clause'".[46]

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civilization no longer requires evil acts to secure good government." McNeilly, The Constitutional Convention of 1890, 6 Miss. Hist. Soc. Pub. 136-38 (1902). Senator J. Z. George is usually considered as the originator or chief sponsor of the clause. The delegate from Grenada was not enthusiastic about the contribution of Senator J. Z. George to the electoral process: "The mephitic vapour that arises from the section actually stinks in the nostrils of an honest man and makes one feel like stuffing the registration books." The press of the state was filled with editorials and letters which dubbed the provision an "odious section", "a shameless fraud", "a disgraceful absurdity", "the mongrel hotch-potch suffrage scheme", or "the fly-blown section". Wharton, The Negro in Mississippi 213 (1947). See also 2 Rowland, Mississippi, The Heart of the South 246-255 (1925). In the South Carolina Convention, the next to adopt the understanding clause, Ben Tillman dealt with the problem with characteristic candor: "Some have said there is fraud in this understanding clause. Some poisons in small doses are very salutary and valuable medicines. . . . *The* [*registration*] *officer is responsible to his conscience and his God; he is responsible to nobody else.* There is no particle of fraud *or illegality in it. It is just showing partiality, perhaps,* (laughter) *or discriminating. Ah, you grin.*" (Emphasis added.) Journal of the Constitutional Convention of the State of South Carolina, 469 (1895). In the Virginia Convention Senator Carter Glass was equally outspoken: "*Discrimination!* Why that is precisely what we propose; that *exactly is what this convention was elected for*". Proceedings and Debates of the Constitutional Convention, 1901-02, II, 3076. See Woodward, 332-35. See also Monnet, The Latest Phase of Negro Disfranchisement, 26 Harv. L. Rev. 42 (1912); Smith, Negro Suffrage in the South, Studies in Southern History and Politics 231-56 (1914); Porter, A History of Suffrage in the United States, 208-18 (1918).

[46] Woodward, 332. Frank P. Stubbs, a delegate from

Ouachita, was quoted as saying: "To adopt the understanding clause would be 'to send word' to the registrars to do what you will not do yourself. We are told that it is more honorable to permit highway robbery than to rob a hen roost. I see no honor in either". New Orleans Times-Democrat, March 20, 1898. Mr. Phanor Breazeale of Natchitoches opposed the plan as a certain instrument of fraud. Judge A. V. Coco of Avoyelles wrote to the Picayune, "The very reason of this Convention is, in morals, dishonest, for its purposes are to do in an indirect way what we cannot do directly. . . . This unconstitutional measure we propose to enact through constitutional and honest means. Well, I say it cannot be done through constitutional and honest means." Eaton, The Suffrage Clause in the New Louisiana Constitution 13 Harv. L. Rev. 279, 290 (1899).

In explaining his vote against the grandfather clause, Dr. H. Dickson Bruns, whose father wrote the appeal to the "Citizens of New Orleans" which precipitated the Battle of Liberty Place, voted against Section 5 because he considered it an "unAmerican doctrine that a man shall be a voter because his father or grandfather once possessed that right . . . . [It] violates justice, law and morals, and I have faith that such violation inexorably evolves in the fulness of time its own punishment upon the violator, be it a man, a party, or a State". Journal, Constitutional Convention of 1898, 142. William O. Hart, an eminent lawyer, voted against it because he "consider[ed] Section 5 in conflict with the Constitution of the United States". Id. 144 W. H. Wise agreed: "Section 5 is unconstitutional, and vicious, and undemocratic in principle." Id. 147. Charles T. Soniat voted against it because it was "glaringly unconstitutional, undemocratic, and unAmerican. . . . . You are discriminating against certain colored citizens in the very teeth of the Constitut[ion] . . . this law, conceived in secret and born in the still hours of last night . . . will breed discord and strife, and will be in a few years execrated by the very parties who now support it on its final passage." Id. 141. Judge Coco thought that the section was a "weak and transparent subterfuge and unmanly evasion of the Constitution of the United States." Id. 146.

The press was highly critical. The New Orleans Times-

Under Article 197 of the 1898 Constitution,[47] in order to register, an applicant had to meet educational and property qualifications—unless exempted by the "grandfather" clause. The educational test required

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Democrat, March 8, 1898, reported that "indignation over the suffrage ordinance is limited to no section of the State". Again, March 29, 1898, "North Louisiana joins hands with Central and Southern Louisiana in protest." Part of this protest was based on the fear that too many white persons would also be disfranchised. The Times-Democrat for February 8, 26, 27, 1898 reported that the understanding clause was rejected in favor of the grandfather clause, because most of the delegates feared that it would place too much power in the hands of the registrar.

Both Louisiana Senators, McEnery and Caffrey, expressed the opinion that the Louisiana suffrage provision was unconstitutional. Porter, History of Suffrage in the United States, 213 (1918).

"Most of the discussions of the Convention seemed to have been about Section 5 of Article 197 [the grandfather clause]. Many of the gentlemen expressed the view that that section was in conflict with the Amendments of the Federal Constitution. Mr. Semmes, in voting for the suffrage ordinance, said . . . 'that he had no scruples of conscience as to its morality. . . . In view of the fact that these amendments were never constitutionally adopted, it is hard to understand what question of conscience is involved in the advocacy of measures by means of which the operation of those two amendments may be defeated. The sole question is what is the surest and most practicable way to bring about that defeat.' Mr. Semmes' prophesy [that it would withstand constitutional attack] has been fully justified by the results. The suffrage provisions of the Constitution of 1898 have worked well. Under the authority of the Primary Election Law, to annex additional qualifications for party suffrage, the Democratic State Central Committee has added the qualification 'white' and thus politically wiped out the Negro". Marr, 245.

[47] Section 5 of Article 197 provides in part: "No male person who was on January 1st, 1867, or at any date prior

the applicant to be able to read and write and demonstrate the ability to do so by filling out the application form without assistance. The property test required the applicant to own property assessed at $300 and to have paid the taxes due on the property.[48] The grandfather clause exempted persons entitled to vote on or before January 1, 1867, or the son or grandson of such person.[49] A similar provision exempted

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thereto, entitled to vote under the Constitution or statutes of any State of the United States, wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of this Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have resided in this State for five years next preceding the date at which he shall apply for registration, and shall have registered in accordance with the terms of this article prior to September 1, 1898, and no person shall be entitled to register under this section after said date."

[48] Negro males in Louisiana over twenty-one who owned property in excess of $300, and were thus qualified to register, numbered 5900. Report of the Secretary of State 559 (1902).

The disfranchising character of the complicated application form was also of great importance. This form has a number of traps for the unwary. One requirement is that the applicant state his age in years, months, and days. "It was estimated that not more than ten per cent of negroes of voting age would be able to satisfactorily pass this test." Evans, 56. See Kernan, 57-60.

[49] Persons who qualified under this section before September 1, 1898, when it expired, were: 37,877 whites and 111 Negroes. Report of the Secretary of State 558 (1902). Later, registration under the grandfather clause was extended to September 1, 1913. Act 24 of 1912.

immigrants who came to this country after January 1, 1867. At the time, forty per cent of the registered voters in Louisiana were illiterate and most of the Negroes could not meet the property requirement. The result was disfranchisement of almost all of the Negro voters and of some twenty to thirty thousand white voters,[50] Alcée Fortier, one of Louisiana's most respected historians, writing in 1904, succinctly stated the legislative purpose of the grandfather clause:

> "The purpose of this section, known as the 'Grandfather Clause' was to allow many honorable and intelligent but illiterate white men to retain the right of suffrage, and the purpose of the educational or property qualification was to disfranchise the ignorant negroes who had been a menace to the civilization of the State since the adoption of the Fifteenth Amendment to the Constitution of the United States." 4 Fortier, History of Louisiana 235.

On accepting the chair as President of the Convention, Ernest B. Kruttschnitt, a leading lawyer in New Orleans and a veteran of the White League, did not mince his words: "We have here no political antagonism and I am called upon to preside over what is little more than a family meeting of the Democratic Party of the State of Louisiana. . . . We are all aware that this Convention has been called . . . principally to deal with one question . . . to eliminate from the electorate the mass of corrupt and illiterate voters who

[50] "One fourth of the white voters had been disfranchised or discouraged from registering. Almost 40,000 less white people had registered in 1900 than in 1897." Howard, 103.

have during the last quarter century degraded our politics."[51] The Convention voted that no ordinance should be considered until the report of the Committee on Suffrage and Election was finally acted upon by the Convention. Near the end of the Convention, President Kruttchnitt announced:

> "We have not been free; we have not drafted the exact Constitution we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of the State, Universal White Manhood Suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins. . . . What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting, and isn't that what we came here for?"[52]

In his message to the legislature, Governor Foster was able to say:

> "The white supremacy for which we have so long struggled at the cost of so much precious blood and treasure, is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument, and that, too, by no subterfuge or other evasions. With this great principle thus firmly imbedded in the Constitution, and honestly enforced, there need be no longer any fear as to the honesty and purity of our future elections."[53]

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[51] Journal of the Constitutional Convention, 9.

[52] Journal of the Constitutional Convention, 380.

[53] La. Senate Journ. 1898, 33-35.

Following the example of Mississippi, with respect to its 1890 Constitution, Louisiana did not submit the 1898 Constitution to the vote of the people.[54]

To make the disfranchisement effective, the legislature directed a complete new registration of all voters. Registration rolls before and after adoption of the Constitution show the prompt effect the grandfather clause had on Negro voters.

| | *January 1; 1897* | *March 17, 1900* |
|---|---|---|
| Number of Negro Voters | 130,344 | 5,320 |
| Number of White Voters | 164,088 | 125,437 |

The drop in Negro registration continued, so that by 1910 only 730 or less than 0.5 per cent of the adult male Negroes were registered. In the sixty parishes then in existence, there were no Negroes registered in twenty-seven parishes and only one Negro registered in each of another nine parishes. Only ten parishes had more than ten Negro registered voters each. By 1918, when there were sixty-four parishes, thirty-seven parishes had no Negroes registered. Eight other parishes had only a single Negro on the voter

[54] The Constitution of 1898 was called under an act of the Legislature which was voted upon by the people, who, in so voting, agreed that the Convention might declare the Constitution adopted without referring it back again to the people. "This act . . . is a curiosity among the acts calling constitutional conventions." Eaton, The Suffrage Clause in the New Constitution of Louisiana, 13 Harv. L. Rev. 279 (1899). The "only constitutions wholly submitted to the people in a proper election were those in 1845 and 1852." Hart, The Quar. Constitutions of Louisiana, 3 La. Hist. 750, 782 (1921). The Constitution of 1879 was submitted to the people for ratification or rejection.

registration rolls.[55] "With the adoption of the Constitution of 1898, Louisiana became in fact and practice a white man's state as far as its politics went."[56]

The 1913 Constitution did not change the suffrage provisions of the 1898 Constitution.

In 1915, in *Guinn v. United States*, the Supreme Court declared the Oklahoma grandfather clause unconstitutional. Chief Justice Edward Douglass White, of Louisiana, who fought with "Louisiana's Own" at the Battle of Liberty Place[57] and was the campaign manager for Governor Nicholls in 1888, wrote the opinion.

Against this background, a constitutional convention was called in 1921. Although there were sev-

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[55] These figures and most of the others used in this opinion are taken from Reports of the Secretary of State, compiled as "Statements of Registered Voters in the State of Louisiana".

The voters qualified to register in 1900 were as follows:

| | *White* | *Negro* |
|---|---|---|
| Under the "educational" qualification | 86,157 | 4,327 |
| Under the "property" qualification | 10,793 | 916 |
| Under the "grandfather" clause | 29,189 | 0 |

There should be a mental adjustment for all comparative registration figures in Louisiana to take into account the downward trend of the Negro population in the State. For example, in 1900 Negroes made up about 50 per cent of the population. Today, they make up about 30 per cent of the population of Louisiana.

[56] 1 Chambers, 699.

[57] Landry, 130, 233.

eral good reasons for Louisiana to revise its constitution, it was well understood, as reported in the New Orleans Times-Picayune: "Revision of the suffrage provision [was] necessary because the United States Supreme Court [had] declared the famous 'grandfather clause' invalid. . . . Already several substitutes have been proposed, among them the 'understanding clause' from Mississippi . . . and the plan of Ex-Governor R. G. Pleasant to confine the right of suffrage to those who inhabited the earth North of the twentieth degree of North latitude prior to October 12, 1492, when Columbus discovered America. The purpose of his plan is to shut out the Negro."[58]

We are handicapped in studying the legislative history of the Constitution of 1921 because, at the request of Ruffin G. Pleasant, the former Governor, who was Chairman of the Committee on Suffrage and Elections, the Committee met in secrecy and no minutes were kept of any discussion or debate. The newspaper accounts of the proceedings, the next best evidence,[59] quote Governor Pleasant as saying that this

[58] Times-Picayune, February 27, 1921. As early as 1916, in a comment in the first issue of Southern Law Quarterly, now the Tulane Law Review, M. B. Redman discussed the interpretation test (Mississippi's understanding clause) as a constitutional equivalent of the Louisiana grandfather clause. 1 Sou. L. Quart. 46, 47-48 (1916).

[59] "Historical facts of general and public notoriety may indeed be proved by reputation, and that reputation may be established by historical words of known character and accuracy" *Morris v. Harmer's Heirs' Lessee*, 1833, 7 Pet 553, 558. 8 L.Ed. 781. (J. Story)

was because "there might be one subject coming up for discussion which we would not care to have preserved. . . ."[60] Suffrage was "a delicate question" and the members preferred "not to debate it in the open."[61] No one failed to hear and heed the thunder of the silence.

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The United States introduced a large number of certified copies of newspaper articles of the period. The newspaper articles are admissible to show purpose. They are the only contemporaneous reports of the 1921 convention available, except for a few legal writings, because of the Convention's decision to hold secret, unreported meetings and discussions on suffrage. In *Hall v. St. Helena Parish School Board*, E.D. La. 1961, 197 F. Supp. 649, aff'd 1961, 368 U.S. 515, 82 S. Ct. 529, 7 L. Ed. 2d 521, this Court turned to newspaper accounts in support of its finding of a racially discriminatory purpose in the adoption of a local option school closing law. In that case we noted: "The sponsors of this legislation, in their public statements, if not in the Act itself, have spelled out its real purpose" (197 F. Supp. 652). In an accompanying footnote, we said: "In Louisiana, as in most states, the legislative debates, committee proceedings, and committee reports are not recorded officially. Going to the next best records, newspapers, we find in the record of this case a mass of contemporary newspaper articles, filed by the plaintiffs and by amicus curiae, bearing on the legislative history of Act 2 and its related measures. Affidavits from the authors of the articles attest their accuracy. In all instances they are part of the official records. Their reliability is evidenced by their substantial agreement." See *Dallas County v. Commercial Union Assurance Co.*, 5 Cir. 1961, 286 F.2d 388, involving private litigation. See also *Davis v. Schnell*, S.D. Ala. 1949, 81 F. Supp. 872, aff'd 336 U. S. 933, 69 S. Ct. 749, 93 L. Ed. 1093. Cf. *Grosjean v. American Press Co.*, 1936, 297 U. S. 233, 56 S. Ct. 444, 80 L. Ed. 660.

[60] New Orleans Times-Picayune, April 3, 1921, p. 1; New Orleans States, March 3, 1921, p. 2.

[61] New Orleans Times-Picayune, March 27, 1921, p. 10.

The Committee first considered and rejected Governor Pleasant's "Christopher Columbus" proposal.[62] The plan finally agreed upon was the plan rejected in 1898 because of its "immorality"—Mississippi's understanding clause, the interpretation test. In reporting the proposal, newspapers of the period consistently referred to it as the Mississippi "understanding" clause, quoting Mr. C. E. Hardin of Vernon Parish and Judge Phillip S. Pugh of Acadia Parish,[63] and described it as a "substitute" or "replacement" for the illegal grandfather clause.[64] For example, a news report of the Times-Picayune characterized the plan as, "An ordinance designed to plug the hole shot through the suffrage provision when the United States Supreme Court declared the famous 'grandfather' clause invalid". The Negro community had no trouble recognizing the purpose of the test. A large delegation of Negro leaders from New Orleans, Baton Rouge, Shreveport, and the parishes appeared before the committee to plead in vain for the franchise, and for

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[62] New Orleans Times-Picayune, February 27, 1921, p. 8; Looney, Suffrage in the Louisiana Constitution of 1921, 6 Loyola L. Jour. 75, 87 (1925).

[63] Times-Picayune, March 14, 1921. The Times-Picayune of March 22, 1921 reported that Judge Pugh "holds that these requirements or qualifications are judicially bombproof."

[64] Baton Rouge State Times, May 9, 1921, p. 7; New Orleans Times-Picayune, March 14, 27, 1921, p. 1; Looney, 79. "With regard to suffrage, the principal feature . . . was the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Evans 68.

more educational facilities.[65] "The Convention [also] placed the power to remove any registrar in the State in the hands of an *ex officio* board of registration composed of the governor, lieutenant governor, and speaker, a majority of whom were more likely to be white men. Should any registrar show a tendency to administer the new registration tests too liberally, or otherwise to conduct his office in a manner displeasing to the administration, the state board could remove him at will."[66]

When the Committee on Suffrage and Elections finally agreed on the interpretation test, the Baton Rouge Times accurately reported:

> "The grandfather clause is eliminated and there is substituted an understanding and good character clause. . . ."[67]

As Professor Powell said in his study of Louisiana constitutions for the Louisiana Law Institute, "In justice to the Convention, it must be said that even its bitterest critics could not deny that the Negroes were almost completely disfranchised."[68]

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[65] New Orleans States, March 31, 1921, p. 6. As in 1898, when Booker T. Washington pleaded unsuccessfully for the Convention not to disfranchise the Negroes, Bishop R. E. Jones, Dr. J. S. Clark, President of Southern University, John G. Lewis, B. V. Baranco, and Walter L. Cohen had no quarrel with an objective educational requirement.

[66] Powell, 485.

[67] The (Baton Rouge) State Times, May 9, 1921, p. 7, col. 1. See also New Orleans Times-Picayune, March 27, 1921, p. 1, col. 1.

[68] Powell, 443.

B. As an historical fact, and as appears from the evidence, the interpretation test was rarely, if ever, applied until the early fifties. It was not needed. The Democratic white primary made registration futile for Negroes.[69] The Democratic State Central Committee, acting under authority granted to it by the State, restricted all candidates and voters in the Democratic Party primary elections for state officers to white persons.[70] "[D]ebarment from the nominating process is in effect disfranchisement. Denial of the privilege of participating in primaries also means, essentially, ineligibility to party membership in general and excludes the negro from all party proceedings such as mass meetings, conventions, or caucuses of voters in

[69] "Until its nullification by the Supreme Court in 1944, the white primary was a more important component of the system than formal limitations on the right to vote. Negroes were excluded as Negroes from the party primary; they could be legally excluded from the general election only by indirection. Invalidation of the white primary, therefore, brought again into prominence the literacy test and other methods of disfranchisement by indirection." Key, Southern Politics, 555 (1949).

See also Weeks, The White Primary, 8 Miss. L. J. 135 (1935); Weeks, The White Primary: 1944-48, 42 Am. Pol. Sc. R. 500 (1948); Harris, The Quest for Equality 119-125 (1960); Moon, The Negro Vote in the Presidential Election of 1956, 26 Jour. Negro Education 219 (1957); Lubell, The Future of the Negro Voter in the United States, 26 Jour. Negro Education 408 (1957); Nabrit, The Future of the Negro Voter in the South, 26 Jour. Negro Education 418 (1957); Sindler, Huey Long's Louisiana 34 (1956); Ewing, Primary Elections in the South 4 (1957); Note, Negro Disfranchisement, 47 Col. L. Rev. 76, 77 (1947).

[70] Minutes of the Democratic State Central Committee, various meetings, Oct. 6, 1931 to Oct. 7, 1947.

the precinct and from delegate conventions in larger areas, to say nothing of party offices and candidacies in the party primaries." Weeks, The White Primary, 8 Miss. L. J. 135, 136 (1935).

The white primary not only effectively kept Negroes from voting in the only election that had any significance in the Louisiana electoral process but it also correspondingly depressed Negro registration to insignificantly low numbers. During the period from 1921 to 1946 Negro registration was never in excess of one per cent of the total registered voters, although the Negro population of the state then constituted about one-third of the potential voters. In 1942 only 957 Negroes were registered to vote in Louisiana and no Negroes were registered in fifty-one of the sixty-four parishes of Louisiana.

In 1944, white primaries, even those conducted by a political party and not by the State, were declared unconstitutional. *Smith v. Allwright*, 1944, 321 U. S. 649, 64 S. Ct. 757, 88 L. Ed. 987.[71] After the demise of the white primary, Negro registration in Louisiana rapidly increased, rising from 1,029 in 1944 to 7,561 in 1946, to 22,576 in 1948, and to 120,000 in 1952.[72]

[71] See also *Nixon v. Herndon*, 1924, 273 U. S. 536, 47 S. Ct. 446, 71 L. Ed. 759; *United States v. Classic*, 1941, 313 U. S. 299, 61 S. Ct. 1031, 85 L. Ed. 1368; *Terry v. Adams*, 1953, 345 U. S. 461, 73 S. Ct. 809, 97 L. Ed. 1152; *Elmore v. Rice*, E.D. S.C. 1947, 72 F. Supp. 516, aff'd 4 Cir. 1947, 165 F. 2d 387, cert. den'd, 333 U. S. 875, 68 S.Ct. 905, 92 L.Ed. 1151.

[72] The number of white voters increased from 711,289 in 1944 to 762,560 in 1946 to 885,437 in 1948. Again, these are from the Secretary of State Reports, Statements of Registered Voters in the State of Louisiana. See also Price, The Negro Voter in the South 1 (1957).

**In 1956 there were 161,410 Negro voters, 15 per cent of the total registered vote in Louisiana, the highest percentage of Negro voters in any state in the southeastern region of the country.**

The decline and fall of the white primary, the return of Negro soldiers from World War II, the intensified tempo of activity in Negro organizations after the School Segregation Cases in 1954, and the civil rights explosion all worked toward increasing Negro interest in voting. These and correlated factors made it imperative for parish registrars in Louisiana to utilize the interpretation test, if the State intended to maintain its policy of segregation, historically indissolubly bound with disfranchisement of Negroes.

C. Immediately following the School Segregation Cases, two strong organizations dedicated to maintaining segregation in Louisiana were established, one by the legislature and one by private persons with official blessing. These two organizations have an important place in the history of the interpretation test. In our study, we see these organizations crossing and recrossing, publicizing and promoting the purpose and function of the test and how best to use it in order to prevent Negro participation in the electoral process. First, in 1954, the Louisiana legislature created a Joint Legislative Committee "to provide ways and means whereby our existing social order shall be preserved and our institutions and ways of life . . . maintained." This was to be accomplished by a pro-

gram "to maintain segregation of the races in all phases of our life in accordance with the customs, traditions, and laws of our State."[73] This Committee became known as the "Segregation Committee". Its chairman was William M. Rainach, State Senator from Claiborne Parish where there are more Negroes than white persons.[74] Its counsel was William M. Shaw, also from Claiborne Parish. Second, at about the same time or before, Senator Rainach and Mr. Shaw and others organized and incorporated the Association of Citizens Councils of Louisiana to "protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects."[75] Senator Rainach was the first president of the Citizens Councils. Mr. Shaw was its first secretary. Senator Rainach and Mr. Shaw organized local councils and spearheaded the operations of the Segregation Committee.

In 1956, the Association of Citizens' Councils published a pamphlet, prepared by Mr. Shaw and Senator Rainach, entitled, "Voter Qualification Laws in Louisiana—The Key to Victory in the Segregation Struggle." The pamphlet advocated a two-step program. First, the registration rolls should be purged of "the great numbers of unqualified voters who have

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[73] La. Legislature, House Concurrent Resolution No. 27 (1954).

[74] The Report of the State Board of Registration for the month ending December 31, 1962, shows that 5,216 white persons and 34 Negroes are registered to vote in Claiborne Parish.

[75] Article II, Act of Incorporation.

been illegally registered", and who "invariably vote in blocks and constitute a menace to the community." Second, registrars should strictly enforce the interpretation test. The pamphlet concludes, "The whole purpose of our registration laws is to prevent the registration of ignorant, 'bloc' voters. . . ." The foreword of the pamphlet makes clear who is referred to by the term "bloc" voter:

> "The Communists and the NAACP plan to register and vote every colored person of age in the South. . . . They are not concerned with whether or not the colored bloc is registered in accordance with law."

No stress, no strain:

> "If our laws are intelligently and fairly administered, they will accomplish our purpose automatically."

The "Key to Victory" is subtitled, "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils." The booklet was the principal topic of discussion at State-sponsored meetings on voter registration attended by registrars and other public officials and was distributed to all persons attending such meetings. The State of Louisiana distributed it to parish registrars, with instructions to follow closely its purpose and intent. Senator Rainach and Mr. Shaw in their dual role as legislative and Citizens' Council leaders were clothed with State authority as they traveled about the State urging and even demanding that the registrars adopt their program.

Carrying out the first phase of the program, local Citizens Councils and their members conducted extensive purges, principally in 1956-58 in eight parishes throughout the state,[76] under the provisions of the challenge statute, Louisiana R.S. 18:133 (1950) LSA. The evidence shows that primarily Negroes were removed from the rolls, although a few whites were also purged in a token effort to maintain an air of nondiscriminatory treatment. Most registrars cooperated fully with Citizens Council members in con-

[76] Beginning April 15, 1956, the Citizens Council of Ouachita Parish challenged all 5,782 of the registered Negroes. Of these, all but 595 were striken from the rolls. The Attorney General of Louisiana sent Mr. Shaw as a special representative to advise the Registrar of voters of Ouachita Parish. As of December 1962, Negro registration in Ouachita was up to 1,038. In Bienville Parish permanent registration was adopted after the purge. All persons who had registered since January 1, 1953, were put on the permanent rolls, except those who were purged. For the Negroes, nearly all of whom were purged, the interpretation test was a prerequisite to registration while for whites, nearly all of whom had registered before it, was not a prerequisite. Thus, as of October 1, 1955, there were 4,825 white persons registered to vote in Bienville Parish out of a white voting population which, according to the 1960 census, was 5,617.

Some parishes required no special effort. For example, in East Carroll, Madison, Tensas, and West Feliciana, there were no registered Negroes and in Claiborne there were only a few on the rolls. In parishes such as Webster, Morehouse, Franklin, and West Carroll, where there was periodic registration, there was no need for a purge because the rolls were automatically cleared. Negro registration in Webster dropped from 1,776 to 83 in 1958. However, there were purges even in some parishes which had periodic registration, such as Lincoln, Red River, and Richland Parishes. Negro registration in Red River dropped from 1,360 to 16 in 1958.

ducting the purges when requested to do so. Innumerable white persons whose registration cards showed deficiencies similar to those of the Negroes were not purged. One registrar said in her deposition that in her parish the Citizen Council members conducting the purges corrected the errors they made *on their own registration applications, while at the same time challenging Negroes for similar mistakes.* Many purges were for failure to take the interpretation test, *even though that test had not been administered at the time of the registrant's application.* When contested in federal court, these purges were found to be illegal deprivations of the Negroes' constitutional rights. *United States v. McElveen*, 1960, E.D.La., 180 F. Supp. 10, modified sub nom. *United States v. Thomas*, 1960, 362 U. S. 58, 80 S. Ct. 612, 4 L. Ed. 2d 535; *United States v. Association of Citizens Councils of Louisiana*, et. al., 1961, W.D.La., 196 F. Supp. 908; *United States v. Wilder*, 1963, W.D.La., 222 F.Supp. 749.

In late 1958 and early 1959 the Segregation Committee and the State Board of Registration jointly sponsored meetings in each congressional district. Registrars were required to attend; sheriffs, police jurors, and other parochial officials, and officers of citizens councils also attended the meetings. At these meetings the Citizens Council's "Key to Victory" was officially distributed to the registrars. Senator Rainach, at that time still Chairman of the Segregation Committee and President of the Association of Citi-

zens Council, was the chairman at these meetings. Mr. Shaw, at that time was still counsel for the Segregation Committee and still counsel for the Association. They led these meetings, vigorously emphasizing the importance of maintaining segregation.

Senator Rainach would tell the registrars, "The fight for school integration in the South has shifted . . . to a fight for the voters of the Negro masses. . . ." He pointed out to the registrars that during the Reconstruction Period, when Negroes were permitted to vote, the public schools of Louisiana were integrated, and that, with the Negroes representing 32 per cent of the population of the state, the Negroes could easily do again what they did during the Reconstruction Era, if they should become registered to vote.

According to Senator Rainach, "In 1897, our forefathers in Louisiana started a program of voter qualification law enforcement, knowing that such a program would provide the solution to their problems." The present voter qualification laws "are adequate to solve our present problems. . . ." Senator Rainach stressed that "registrars have become critically important officials . . . they have become the focal point of the solution to our problems."

Mr. Shaw would explain the registrar's part. The *"key to the solution of our whole problem lies in the interpretation of the Constitution," Mr. Shaw told the registrars.* He urged the registrars to require applicants to interpret the constitution and pro-

vided them with 25 test cards to be used for this purpose. Mr. Shaw instructed the registrars:

> "[T]he constitutional test and their ability to understand the duties and responsibilities under a republican form of government, which is another one of the tests, is basically a test of a person's understanding, which is native intelligence in that you can educate a fool, but you'd still have nothing but an educated fool when you get through, and he wouldn't be able to qualify. And therefore, *if they were correctly and fairly administered*—that's the key to the whole thing—directed fairly—then it will amount to a test of ability, of a person's understanding, which is native ability. It is not education. Education can merely refine native understanding. If you have no native understanding to start out with, it can't be refined." (Emphasis added.)

Mr. Shaw also told the registrars:

> "Constitutional tests are a test of native intelligence and not 'book learning'. Experience teaches that most of our own white people have this native intelligence while most Negroes do not."

Mrs. Mary C. Flournoy, former Registrar of Winn Parish, gives us some indication of the meaning of "correctly and fairly administer[ing]" the test. She stated that Senator Rainach, while he was Chairman of the Segregation Committee, told her to discriminate on account of race in processing applications:

> "Rainach told me if . . . I can't fail them [Negro applicants] any other way, I could pull those Constitution reading cards on them.

". . . Rainach wanted me to pull those hard cards on colored people."

D. The Louisiana *Codes Noir* of Colonial times and the Black Codes of the eighteen sixties; the pre-Civil War denial of the vote to Negroes, even to wealthy and educated free men of color; the ebb and flow of Negro rights in the Constitutions of 1864 and 1868; the 1879 transfer of political power from police juries and the legislature to the Governor; the close election of 1892 and the 1896 victory for white supremacy; the grandfather clause and the complicated registration application form in the Constitution of 1898; the invalidity of the grandfather clause and the consequent resort to Mississippi's understanding and interpretation clause; the effectiveness of the white primary as a means of disfranchising Negroes; the invalidity of the white primary and the consequent need to revive enforcement of the interpretation test; the White League and the Citizens' Councils; the Black League and the N.A.A.C.P.; the Battle of Liberty Place in 1874 and the Ouachita voting purge of 1956—these are all related members of a series, all reactions to the same dynamics that produced the interpretation test and speak eloquently of its purpose.

In sum, the interpretation test is another grandfather clause. Its purpose is rooted in the same history. It has the same objective the delegates to the Constitutional Convention of 1898 envisaged for the grandfather clause. It is capable of producing the

same effective disfranchisement of Negroes today that the grandfather clause produced sixty-five years ago.

## V.

Having determined the true reason for the interpretation test in its historical setting, we turn from *why* to *how* the test is used as a discriminatory device.

There are two reasons for a court to consider how a law is administered. The obvious reason is that any regulatory statute may be administered unfairly. If so, the court may enjoin the unfair acts without passing on the validity of the statute. But there is another reason. Just how a law is actually used by those charged with administering it is a proper guide to the purpose of the law and its necessary effect. Here, we find massive evidence that the registrars discriminated against Negroes not as isolated or accidental or unpredictable acts of unfairness by particular individuals, but as a matter of state policy in a pattern based on the regular, consistent, predictable unequal application of the test. This is the inescapable effect of a subjective requirement such as an understanding or interpretation test barren of standards and safeguards, the administration of which rests in the uncontrolled discretion of a registrar.

The United States introduced a great mass of evidence in the record, but with commendable diligence made it digestible by well-prepared indices and well-organized summaries. The evidence of discriminatory application of the interpretation test is especially well

documented and supported by testimony with respect to the following parishes: Plaquemines, East Feliciana, Webster, Bienville, Red River, Jackson, and Ouachita.

A. First of all, a Louisiana registrar has the power to use or not to use the interpretation test. The parties to this case stipulated that the test had never been used in the four largest parishes of the state, Caddo, Jefferson, East Baton Rouge, and Orleans. These parishes have almost forty per cent of the total number of registered voters in the State. The United States introduced evidence that the interpretation test was used in twenty-one parishes.[77] No mention was made of the other thirty-nine parishes in the state. The evidence shows that the test was seldom, if ever, applied anywhere in Louisiana before 1954[78] because, as previously pointed out, until the white primary was invalidated there was no need for the test. This means that the *majority of Louisiana*

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[77] These parishes are: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn. The Director of the State Board of Registration testified that certain other parishes use the test but he has no personal knowledge of this. He said also that Caddo Parish uses the test; the parties however have agreed that Caddo does not use it.

[78] The depositions were taken of twenty registrars and former registrars who used the interpretation test. The earliest use of the test by any of these registrars was in November 1955. The former registrar of Plaquemines Parish testified that he started using the test late in 1954.

*voters now registered under the permanent registration law have never taken the test.*

In the twenty-one parishes where it has been shown that the interpretation test has been used, as of December 31, 1962, only 8.6 per cent of the adult Negroes were registered as against 66.1 per cent of the adult white persons registered. Before the interpretation test was put into use, a total of 25,361 Negroes were registered in the twenty-one parishes using the test. By August 31, 1962, total Negro registration in these parishes was 10,351. During the same period, white registration was not discernibly affected.

B. The decision to enforce the interpretation test more than thirty years after its adoption was accompanied, in almost every parish where the test has been used, by a wholesale purge of Negro voters or by periodic registration so that Negro voters were required to re-register *after* the test came into use. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all of the requirements of the Louisiana voter qualification laws at the time they registered. Actually, the challenged Negroes had satisfied all the requirements imposed by the registrar *at the time* they registered. White voters had registered under the same standards and procedures as the Negroes and their registrations suffered from the same alleged deficiencies as the Negroes who were purged. In at least two parishes, Ouachita and East

Feliciana, one ground for challenging Negroes was that they had not interpreted or were not able to interpret a constitutional section, even though the test had not been used in either parish before the purge.

In most parishes where there was a purge, since the Negroes were unable to gain reinstatement in the manner prescribed by Louisiana Law, they were required to re-register. And to do so they had to pass the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purge and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita and Rapides, which have permanent registration. In parishes using periodic registration the purges had a deterrent effect on Negro registration which is still felt.[79]

C. The registrar's whim alone determines which applicants will be tested. The Constitution merely states that applicants "shall *be able to* understand and give a reasonable interpretation" of a section of a constitution. Some registrars, for example, those in LaSalle, Lincoln, and Webster parishes, have interpreted this to mean that the applicant need not actually interpret the constitution, only that he have the ability to do so. The State Board of Registration

[79] Thus, in Red River Parish very few Negroes have applied since 1956, although there were 1,362 Negroes registered before the purge. As of December 31, 1962, there were 31 Negroes registered.

maintained at one time that the correct interpretation was that the applicant must demonstrate his ability in all cases. It has, however, changed its understanding or interpretation of this very section of the Constitution. After the institution of this suit, the Board prescribed another test, instructing registrars to cease requiring an interpretation. The change in the interpretation given the interpretation-test provision of the Constitution by the State agency charged with enforcing it and the wide variety of interpretations adopted by the registrars reaffirm the impossibility of achieving objective standards for an interpretation of the Constitution acceptable to the State. Pity the applicant asked to interpret the interpretation test!

D. The Louisiana Constitution contains 443 sections, as against 56 sections in the United States Constitution, and is the longest and the most detailed of all state constitutions. The printed copy published by the State, unannotated, contains 600 pages, not counting an index of 140 pages. The evidence clearly demonstrates great abuses in the selection of sections of the constitutions to be interpreted. Some registrars have favorite sections which they apparently use regardless of an applicant's race. Some open a volume containing the United States and Louisiana Constitutions and, like soothsayers seeking divine help from the random flight of birds, require an applicant to interpret the section on the page where the book opens. The Segregation Committee distributed to reg-

istrars sets of twenty-four cards, each containing three sections of the Constitution with instructions that they be used in administering the interpretation test. The Registrar of Ouachita Parish used a set of test cards containing sections chosen by the Citizens' Council. The Registrar of Plaquemines used cards and answers prepared by Mr. Leander Perez, District Attorney for the Parish.

It is evident from the record that frequently the choice of difficult sections has made it impossible for many Negro applicants to pass. White applicants were more often given easy sections, many of which could be answered by short, stock phrases such as "freedom of speech", "freedom of religion", "States' rights", and so on. Negro applicants, on the other hand, were given parts of the Louisiana Constitution such as Article VII, § 41; Article X, § 1, § 16; Article XIV, § 23, § 24.2.[80]

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[80] Article 7 reads: "All cases in which the punishment may not be at hard labor shall, until otherwise provided by law, be tried by the judge without a jury. Cases, in which the punishment may be at hard labor, shall be tried by a jury of five, all of whom must concur to render a verdict; cases, in which the punishment is necessarily at hard labor, by a jury of twelve, nine of whom must concur to render a verdict; cases in which the punishment may be capital, by a jury of twelve; all of whom must concur to render a verdict." Article 10 reads: "The power of taxation shall be vested in the Legislature; shall never be surrendered, suspended or contracted away; and all taxes shall be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only. No property shall be assessed for more than its actual cash value, ascertained as directed by

E. As in the selection process, gross abuses of discretion appear in the evaluation of the interpretations. One rejected applicant stated that the registrar "said what I was saying was right, but it wasn't like she wanted me to say it".

Most of the interpretation tests have been administered orally, thus precluding the use of written records as a check on what the registrar accepted as reasonable interpretations. Nevertheless, the record shows that interpretations far less responsive to the constitutional text selected have been accepted from whites than from Negroes. Compounding this with the fact that Negroes were often given more diffi-

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law, and all taxpayers shall have the right of testing the correctness of their assessments before the courts at the domicile of the assessing authority, or as may be directed by law. The valuation and classification fixed for State purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivision may adopt a different percentage of such valuation for purposes of local taxation." Article 14 reads: "The City of New Orleans by a vote of three-fourths of all members of the Sewerage and Water Board of New Orleans, approved by a vote of three-fourths of all the members of the Board of Liquidation, City Debt, and approved by resolution of the Commission Council, or its successor as the governing body of said municipality, adopted by a vote of two-thirds of all the members of said Council, or governing body, shall have power and is hereby authorized to issue bonds to the amount of Nine Million Dollars ($9,000,000) of said City to be styled 'City of New Orleans, Sewerage, Water and Drainage Serial Gold Bonds', and to bear such rate of interest as the Board of Liquidation, City Debt, may fix from time to time as said bonds are offered for sale, as hereinafter provided, for the purpose of constructing and extending the sewerage, water and drainage system of said City."

cult sections to interpret, the bias in favor of the whites becomes readily apparent.

Some parishes administered written examinations and kept records of the questions asked and the responses accepted. In these examinations the registrar usually employed one or more of several sets of cards containing selected sections of the Constitution and a space for the applicant's interpretation of it. Even the most cursory glance at the records in these parishes underscores the heavy burden under which Negro applicants were laboring. In one set of cards, there is great disparity in the difficulty of the questions asked. This enables the registrar to select cards with simple sections for white applicants and difficult cards for Negroes. There is unmistakable evidence that many white applicants were shown cards with sample answers on them. Some applicants admitted this, and there is even an instance of a white applicant having, by mistake, signed the sample answer card. Negroes were not allowed to see the acceptable answers, let alone copy them. Similarly, the pattern of the answers indicates that the registrars often told white applicants the currently acceptable answers. The phraseology of almost every answer in one parish changed right along with the registrar's change in the wording of the acceptable answer.

Registrars were easily satisfied with answers from white voters. In one instance "FRDUM FOOF SPETGH" was an acceptable response to the request

to interpret Article 1, § 3 of the Louisiana Constitution.

On the other hand, the record shows that Negroes whose application forms and answers indicate that they are highly qualified by literacy standards and have a high degree of intelligence have been turned down although they had given a reasonable interpretation of fairly technical clauses of the constitution. For example the Louisiana Constitution, Article X, § 16 provides: "Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed for State purposes only, at a rate not to exceed forty mills on the dollar assessed value." The rejected interpretation was: "My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed forty mills on the dollar."

In another instance the registrar rejected the following interpretation of the Search and Seizure provision of the Fourth Amendment: "[N]obody can just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what they were to search and seize." Another rejected interpretation of the same Amendment by a Negro applicant was: "To search you would have to get an authorized authority to read a warrant." The Louisiana Constitution Article I, § 5 provides: "The people have the right peaceably to assemble." A registrar rejected the following interpre-

tation: "That one may assemble or belong to any group, club, or organization he chooses as long as it is within the law."

Each of these incidents *could* conceivably be an isolated event, indicating personal dereliction by one registrar, regrettable, but basically trivial in the general administration of the interpretation test. However, the great number of these and other examples, illustrative of a conscious decision, show conclusively that the discriminatory acts were not isolated or accidental or peculiar to the individual registrar but were part of a pervasive pattern and practice of disfranchisement by interpretation.

The State does not deny that unlimited discretion is vested in the registrars by the laws of Louisiana, but argues that officials must act reasonably and that their decisions are subject to review by district courts. Louisiana, however, provides no effective method whereby arbitrary and capricious action by registrars of voters may be prevented or redressed. Unreviewable discretion was built into the test.

The State Board of Registration recently recognized the arbitrary nature of the test, and, as indicated earlier in this opinion, abandoned its general use after the institution of this suit. However, the Constitution and statutes of Louisiana still require the use of the understanding and interpretation test. And registrars have not entirely abandoned it, despite the institution of the new test. For example, as late as April 1963 the Webster registrar was using the in-

terpretation test because, as she explained, "it's still on the books"; sometimes she gave the citizenship test and sometimes the interpretation test. Voters registering now could be challenged and purged in the future for not taking the interpretation test—should history repeat itself. This is exactly what happened in the middle and late nineteen-fifties.

F. The statistics demonstrate strikingly the effect of resurrection of the interpretation test. A report of the Louisiana Sovereignty Committee, December 14, 1960, boasts:

> "We would like to call your attention to the fact that, during this four year period of time, from 1956 until 1960, 81,214 colored people became of voting age, when the registration figures of colored people actually declined 2,377. Going further during this four year period, we had 114,529 white people who became of voting age and, during this four year period of time, the white registration increased 96,620."

The State of Louisiana accomplished its purpose in the parishes where the constitutional interpretation test was used.[81] In those twenty-one parishes, registration of white persons between 1956 and December 31, 1960, increased from 161,069 to 162,427; registration of Negroes decreased from 25,361 to 10,256.

## VI.

We have considered the true reason for the test, how the test was in fact used to accomplish its pur-

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pose, and its necessary effect. Now, we apply the law.

No one doubts the broad scope of the State's power to fix reasonable, nondiscriminatory qualifications for voting consistent with the Constitution. Thus, a literacy test bears a reasonable relation to a governmental objective and, if it does not perpetuate past discrimination, is a permissible requirement, "[I]n our society . . . a State might conclude that only those who are literate should exercise the fran-

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[81] DISCRIMINATORY EFFECT OF THE INTERPRETATION TEST

| | *Voting Age Population (1960)* | | *Registered Voters March 17, 1956* | | *Registered Voters Dec. 31, 1960* | |
|---|---|---|---|---|---|---|
| *Parish* | *White* | *Negro* | *White* | *Negro* | *White* | *Negro* |
| Bienville | 5,617 | 4,077 | 5,328 | 587 | 5,175 | 25 |
| Claiborne | 6,415 | 5,032 | 5,808 | 17 | 5,501 | 29 |
| DeSoto | 6,543 | 6,753 | 5,640 | 762 | 5,822 | 594 |
| East Carroll | 2,990 | 4,183 | 3,000 | 0 | 2,845 | 0 |
| East Feliciana | 4,200 | 4,102 | 2,812 | 1,361 | 2,448 | 82 |
| Franklin | 8,954 | 4,433 | 8,297 | 650 | 8,260 | 390 |
| Jackson | 6,607 | 2,535 | 5,457 | 1,113 | 5,804 | 483 |
| LaSalle | 6,799 | 849 | 6,861 | 742 | 6,823 | 220 |
| Lincoln | 9,611 | 5,723 | 7,029 | 1,166 | 6,928 | 860 |
| Morehouse | 10,311 | 7,208 | 9,400 | 935 | 7,489 | 301 |
| Ouachita | 40,185 | 16,377 | 24,184 | 5,782 | 24,789 | 729 |
| Plaquemines | 8,633 | 2,897 | 4,741 | 49 | 7,160 | 47 |
| Rapides | 44,823 | 18,141 | 26,293 | 3,160 | 30,362 | 3,073 |
| Red River | 3,294 | 2,181 | 3,575 | 1,512 | 3,429 | 27 |
| Richland | 7,601 | 4,608 | 7,195 | 740 | 6,075 | 263 |
| St. Helena | 2,363 | 2,082 | 2,555 | 1,694 | 2,478 | 1,243 |
| Union | 7,021 | 3,006 | 6,895 | 1,600 | 5,911 | 597 |
| Webster | 15,713 | 7,045 | 12,618 | 1,769 | 12,250 | 130 |
| West Carroll | 6,171 | 1,389 | 5,660 | 292 | 5,182 | 70 |
| West Feliciana | 1,632 | 2,235 | 1,272 | 0 | 1,303 | 0 |
| Winn | 6,790 | 2,590 | 6,449 | 1,430 | 6,393 | 1,093 |
| TOTAL | 212,273 | 107,446 | 161,069 | 25,361 | 162,427 | 10,256 |

chise." *Lassiter v. Northampton County Bd. of Elections*, 1959, 360 U. S. 45, 52, 79 S. Ct. 985, 990, 3 L. Ed. 2d 1072. Since Louisiana has the highest illiteracy rate in the nation, the State has even more reason than most states to use a literacy test as a spur to improve the level of the electorate. *But the understanding clause, which is an interpretation test of the constitutions, must not be confused with a literacy test or the two treated as peers.* Under Louisiana law, any literacy qualification is met by the requirement that the applicant read to the registrar the Preamble of the United States Constitution. In fact, an applicant need write the Preamble only in his mother tongue, through the dictation of an interpreter if he cannot speak, read, or write English. La. Const. Art. VIII, § 1(c). For good measure, ability to fill out an application form is an additional test of literacy. Moreover, under another statute and provision of the State Constitution, until 1960 *all of the time Louisiana had an interpretation test it allowed illiterates to vote.*[82] (LSA-R.S. 18:36). In November 1962 the State

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[82] The distribution of literacy among the registered voters is revealing.

| | *1940* | *1960* |
|---|---|---|
| Number of white voters who write their names | 652,271 | 786,506 |
| Number of Negro voters who write their names | 848 | 116,676 |
| Number of white voters who make mark | 50,473 | 22,956 |
| Number of colored voters who make mark | 14 | 12,804 |

carried 37,365 illiterates on the registration rolls.

We do not have before us a test having a rational relation with the proper governmental objective of giving the vote only to qualified persons. Despite assurances by state officials at the meetings of the registrars that this test measures "only native intelligence", the truth of the matter is that there is nothing in native intelligence that will enable those untutored in constitutional law to give a reasonable interpretation of a highly technical document containing such legal concepts as, for example, venue, due process, the requisites of a criminal indictment, appellate court jurisdiction, and jurisdictional amount. Whatever name the State elects to give to the test, it is not a test of intelligence or citizenship when it enables a registrar to flunk eight Negro school teachers while passing eight illiterate white persons.[83]

As it is administered and as it was intended to be administered, the Louisiana understanding and interpretation test bears no relation to reasonable voting requirements. If a registrar should require an applicant to interpret Article X of the Louisiana Constitution dealing with the distribution between State and parish of *ad valorem* severance taxes on sulphur on the one hand and oil and gas on the other hand, we would find it impossible to hold that an interpretation of this provision served a rational governmental interest in withholding the suffrage from unqualified

[83] This bizarre result was reached in East Feliciana.

voters. Short of a government of philosopher-kings,—and no one has ever described Louisiana government in such terms—there is just no correlation between an ability to interpret *any* section of the Louisiana Constitution a registrar may thrust at an applicant for registration and a legitimate State interest in an informed electorate.

The ugly intractable truth is, the nexus is with unlawful discrimination. The ineradicable vice vitiating any relation to a legitimate governmental objective is the raw power vested in the registrar. The unrestricted power which makes the registrars' discriminatory and arbitrary conduct possible comes from the word "understand" and "interpretation." "Understand" and "interpretation" are w o r d s without definite meaning in the law. Their purposive ambiguity is the key to the true reason for the test:

> "The terms 'read', 'speak' and 'write', unlike the words 'understand' and 'explain' have considerable objective content, and the quantum of administrative decision that could be employed within the framework of such terminology would seem to be negligible. In contrast, . . . in both Louisiana and Mississippi [a would-be] voter is required to give a 'reasonable interpretation' of the Constitution of the United States. The language employed in these tests is similar to that of the Alabama literacy amendment and, because of its vagueness, would appear equally censurable." Note, 49 Col. L. Rev. 1144, 1146 (1949).

The understanding and interpretation of anything is an intimately subjective process. A communi-

cation of that understanding is itself subject to the understanding or interpretation of the listener or reader. Even in an atmosphere of mutual cooperation and good will, it is often very difficult for one person to know that the other actually understands what is being said or done. As appears from the evidence, however, in many registration offices in Louisiana the relation between the Registrar and Negro applicants can hardly be described as mutually cooperative. As Senator Rainach and Mr. Shaw, officers of the State of Louisiana, candidly described it, the registration office in Louisiana is "the front line of the battle" to retain a segregated society.

Without help from Senator Rainach or Mr. Shaw —the customs of generations, the mores of the community, the exposure of the individual to segregation from the cradle make it difficult, if not impossible, for a registrar to evaluate objectively what is necessarily a subjective test. We are sensible of the registrar's difficulties—he must live with his friends—but we must recognize that his predelictions weight the scales against Negroes and hinder fair administration of an interpretation test or a citizenship test. When neither the Constitution nor the statutes prescribe any standards for the administration of the test, the net result is full latitude for calculated, purposeful discrimination and even for unthinking, purposeless discrimination.

In *Davis v. Schnell*, S.D. Ala. 1949, 81 F. Supp. 872, aff'd memo. 1949, 336 U.S. 933, 69 S. Ct. 749,

93 L.Ed. 1093, a three-judge court (Circuit Judge McCord and District Judges Mullins and McDuffie) had before it the Boswell Amendment to the Alabama Constitution. The Court held (as we do in the case before us) that the test was invalid on its face and invalid as administered.

The Boswell amendment, adopted in 1946, permitted registration only of persons who could "understand and explain" any article of the Federal Constitution. The Court dealt at length with the meaning of the word "understand":

> "As pointed out, 'understand' may mean to interpret. [Louisiana uses both words.] This meaning requires an exceedingly high, if not impossible, standard. The distinguished Justices of the Supreme Court of the United States have frequently disagreed in their interpretations of various articles of the Constitution. We learn from history that many of the makers of the Constitution did not understand its provisions; many of them understood and believed that its provisions gave the Supreme Court no power to declare an act of Congress unconstitutional. An understanding or explanation given by the Supreme Court a few years ago as to the meaning of the commerce clause does not apply today. Among our most learned judges there are at least four different understandings and explanations of the Fourteenth Amendment to the Constitution as to whether it made the first eight Amendments applicable to state action. Such a rigorous standard . . . illustrates the completeness with which any individual or group of prospec-

tive electors, whether white or Negro, may be deprived of the right of franchise by boards of registrars inclined to apply this one of the innumerable meanings of such an indefinite phrase. . . ." 81 F. Supp. at 877-78.

*Davis v. Schnell* was heard shortly after the adoption of the amendment. The Court was concerned therefore with only a few examples of arbitrary action and concentrated its discussion on the inherent potential for discriminatory and arbitrary administration. The Court held that the understanding clause violated the Fourteenth Amendment:

> "To state it more plainly, the board has the right to reject one applicant and accept another, depending solely upon whether it likes or dislikes the understanding and explanation offered. To state it even more plainly, the board, by the use of the words 'understand and explain,' is given the arbitrary power to accept or reject any prospective elector that may apply, or, to use the language of *Yick Wo v. Hopkins*, 118 U. S. 356, 366, 6 S. Ct. 1064, 1069, 30 L. Ed. 220, these words 'actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case, but a naked and arbitrary power to give or withhold consent. . . .' . . . *Such arbitrary power amounts to a denial of the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution.* . . ." 81 F. Supp. at 878.

The Court also held that both the legislative purpose and the administration of the test violated the Fifteenth Amendment:

> "It, thus, clearly appears that [the Boswell] Amendment was intended to be, and is being used for the purpose of discriminating against applicants for the franchise on the basis of race or color. Therefore, we are necessarily brought to the conclusion that the Amendment to the Constitution of Alabama, *both in its object and the manner of its administration, is unconstitutional, because it violates the Fifteenth Amendment. While it is true that there is no mention of race or color in the Boswell Amendment, this does not save it.*" (Emphasis supplied.)

Referring to *Davis v. Schnell* in *Lassiter v. Northampton Election Board* the Supreme Court has said:

> "In *Davis v. Schnell* . . . the test was the citizen's ability to 'understand and explain' an article of the Federal Constitution. The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy."

The Fifth Circuit has recently applied the *Davis v. Schnell* rationale in an action by the United States under 42 U.S.C.A. 1971(c) against the Board of Registrars of Dallas County, Alabama. *United States v. Atkins*, 1963, 5 Cir., 323 F.2d 733. In that case the district court held that the prior Board had discriminated against Negroes, the current Board had not. Section 181 of the Alabama Constitution provides that the boards of registrars, in determining the qualifications of applicants, use a questionnaire so worded

that the answers would give information necessary or proper to enable the boards to pass upon the qualifications of the applications. The predecessor section to Section 181 was "the understand and explain" clause struck down in *Davis v. Schnell.* There was "no set standard for the 'grading' of questionnaires." The Court of Appeals held that "this is precisely the sort of practice condemned in *Davis v. Schnell*" and granted an injunction against the current Board rejecting applicants for errors or omissions in the questionnaire until they presented to the court a "definite set of standards" which would meet the approval of the court.

The State of Louisiana itself, through its authorized legal advisory agency, the Louisiana Law Institute,[84] has questioned the constitutionality of the interpretation test. Act 52 of the Louisiana legislature of 1946 directed the Louisiana Law Institute to prepare a draft or "projet of a Constitution for the State of Louisiana". In 1954 the work was completed and circulated by the State.[85] After a thorough study of the law, the Institute concluded that if the provisions of the Louisiana Constitution establishing an

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[84] The Louisiana Law Institute, composed of the State's most distinguished attorneys and law teachers, is chartered by the legislature as "an official advisory law revision commission, law reform agency, and legal research agency of the State of Louisiana". LSA-R.S. 24:201 (1950). See Smith, Role of Louisiana Law Institute, 16 La. L. Rev. 691 (1956); Tucker, The Louisiana Law Institute, 1 La. L. Rev. 139 (1938).

[85] In 1956 the voters rejected a constitutional convention.

understanding and interpretation test were attacked in court, "Certainly if the same charges could be successfully made concerning the Louisiana provisions [as were made in *Davis v. Schnell*], they would be unconstitutional."[86] The Reporter commented that "al-

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[86] The Institute's comments on *Davis v. Schnell* are:

"It is clear that the constitutionality of the provisions listed above is now questionable. It is impossible to predict exactly what the supreme court may require in the future to strike down the 'understanding' and similar clauses. *In the Schnell case it was shown (1) that the purpose in adopting the amendment was to disfranchise the Negroes* and (2) *that, in fact, the amendment was administered in such a way as to disfranchise the Negroes.* [Emphasis added.] Certainly if the same charges could be successfully made concerning the Louisiana provisions, they would be unconstitutional.

"It also seems likely that the court would find a violation of the equal protection clause of the Fourteenth Amendment if only discriminatory administration were proved. [*Yick Wo v. Hopkins*, 118 U. S. 356, 6 S. Ct. 1064 [30 L.Ed. 220] (1886); *William* [*Williams*] *v. Mississippi*, 170 U. S. 213, 18 S. Ct. 583 [42 L.Ed. 1012] (1898); and *Trudeau v. Barnes*, [5 Cir.] 65 F. (2d 563 (1933)]. Discrimination as to race or color in administration, together with disfranchisement of the Negro as the original purpose of a constitutional provision, would seem to be contrary to the Fifteenth Amendment.

"Whether constitutional provisions of this character could now stand, even though there is no showing of malicious purpose in adoption or discrimination in administration, is subject to question. In two previous cases involving such 'understanding' clauses, one concerning the Mississippi constitutional provision [*Williams v. Mississippi*, 170 U. S. 213, 18 S. Ct. 583 [42 L.Ed. 1012], (1898)] and the other involving the Louisiana constitutional provision [*Trudeau v. Barnes*, [5 Cir.] 65 F. (2d) 563 (1933)], the court held that the constitutional provisions standing alone without proof of discrimination in administration were not unconstitutional as

though discrimination in administration was found [in *Davis v. Schnell*], the lower court . . . declared the provision unconstitutional *on its face because it furnished no test or standard to control* administrative discretion". The Institute summarized its position as follows:

> "1. The Institute in deleting these qualifications was influenced by the following considerations:
>
> a. The doubtful constitutionality of the present provisions;
>
> b. The arbitrary power they give to registrars of voters, since no objective criteria are provided; and
>
> c. The authority given the legislature under the Projet to require additional educational qualifications."

In *Darby v. Daniel*, S.D.Miss. 1958, 168 F. Supp. 170, a three-judge court (Circuit Judge Cameron and

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violative of the equal protection clause of the Fourteenth Amendment. However, in the *Schnell* case, although discrimination in administration was found, the lower court did not base its conclusion upon this; *rather, it declared the provision unconstitutional on its face because it furnished no test or standard to control administrative discretion.* Thus, it may be that now such provisions will be held unconstitutional in themselves regardless of whether or not discriminatory administration is found." 3 Projet of a Constitution for the State of Louisiana 40, 41 (1954).

In addition to deleting the interpretation test, the Projet also omits the requirements of (1) filling out the registration application form, (2) the good character clause, and (3) the clause requiring one to understand the duties and obligations of citizenship.

District Judges Mize and Clayton) distinguished the Boswell Amendment from a Mississippi provision requiring voters to "understand . . . and give a reasonable interpretation" of "any section of the Constitution" of Mississippi. The *Darby* Court found that, unlike the Boswell Amendment, the Mississippi understanding test did not grant arbitrary power and that there was no evidence of its having been used arbitrarily. In *Darby* the Court declared that it could find no legislative purpose to discriminate and no proof showing racial discrimination.[87] Both are present in the instant case. But *Darby's* actual narrow holding was only that the plaintiff was not qualified and had not exhausted his state remedies.

We cannot see any substantial difference between "understand and explain" (the Boswell Amendment) and "understand . . . and give a reasonable interpretation". As pointed out earlier, the Mississippi understanding clause is the same test the Louisiana delegates to the Constitutional Convention of 1898 could not stomach, which was swallowed without gagging by the stronger-stomached delegates to the Convention of

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[87] In *Darby* the court relied strongly on *Williams v. Mississippi*, 1898, 170 U. S. 213, 18 S. Ct. 583, 42 L. Ed. 1012. That case did not involve a direct attack on the standards for registration. *Williams* was a murder case; the suffrage issue was collateral. The record in *Williams*, as in *Trudeau*, showed no proof of a discriminatory purpose and no discriminatory use of the test. Moreover, the relief sought was registration under the "understanding" standards rather than invalidation of them. See Comment, 72 Yale L. Jour. 770 (1963).

1921.[88] The dicta in *Darby v. Daniel* must yield to the Supreme Court's holding in *Davis v. Schnell.*

If it may be said that in *Trudeau v. Barnes*, 5 Cir. 1933, 65 F. 2d 563, upholds the validity of the Louisiana interpretation test, that decision is no longer the law, in the light of *Davis v. Schnell* and the more recent cases. The *Trudeau* court, in 1933, was unable to find that the interpretation test was adopted for the purpose of disfranchising the Negro. However, in *Trudeau* there were important circumstances, not present here, which the court was compelled to consider in reaching a decision. (1) The case was an action at law against the registrar for damages. (2) The case was decided on a motion to dismiss, so that the Court did not have the benefit of evidence of a discriminatory purpose and proof of the discriminatory effect of the interpretation test. (3) At the time the case was decided, the law required the plaintiff to exhaust his administrative remedy. By express provi-

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[88] The delegates to the Constitutional Convention of 1921 fully understood that the Convention had adopted the Mississippi understanding clause. Thus, Frank J. Looney, an active member and prominent lawyer, wrote in 1925: "This is the clause known as the 'understanding clause' and has been passed on by the United States Supreme Court in the case of *Williams v. Mississippi*, 170 U. S. 213. [18 S. Ct. 583, 42 L. Ed. 1012]" Looney, Suffrage in the Constitution of 1921, 6 Loyola L. Jour. 75, 79 (1925). "With regard to suffrage the principal feature . . . . is the addition of the 'reasonable interpretation' and 'understanding' provision of the Mississippi Constitution". Berdahl, The Louisiana Constitutional Convention, 15 Amer. Pol. Sc. Rev. 565 (1921). See also Footnotes 45 and 46.

sion in the Civil Rights Act, it is no longer necessary for a plaintiff to exhaust state remedies.

Each registrar in Louisiana is the sole judge of whether to apply the interpretation test or not to apply it and whether an applicant qualifies. The judgment is made without guidance, without standards, without limitations imposed by law; the judgment is necessarily subjective. Thus the right to vote depends more upon the caprice of the registrar than upon the possession of measurable qualifications.

A year after the Convention of 1898 rejected the Mississippi understanding clause, Thomas J. Kernan, an outstanding Louisiana lawyer and one of the delegates to the convention, pegged the understanding and interpretation test about as well as it could be pegged:

> "The 'understanding clause' was objectionable for many reasons. . . . The adoption of such a plan would have negatived the idea of a return to 'purer methods, wiser laws' in the matter of elections, which, in Louisiana, had grown to be a demand, second in importance only to that for the elimination of the negro from the electorate. *This 'understanding clause' fixes no standard of qualification for the franchise.* It is left to the discretion of the registration officer to select any one of the numerous articles of the Constitution as the test of the voter's 'understanding;' and *there are, therefore, as many different tests as there are articles in the Constitution. This arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or dis-*

> *franchise voters at his own sweet will and pleasure without let or hindrance.* As long as registration officers are mere men, endowed with the same qualities only as their fellow mortals, it will always be unsafe to intrust them with such absolute power. The Convention, in my opinion, acted wisely in refusing to adopt the 'understanding clause,'." Kernan, The Constitutional Convention of 1898 and Its Work, Proc. La. Bar Ass'n for 1899, 54, 59.

The orderly society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualifications of voters, it has enacted "not a law, but an attempt to make the arbiter in such a case a law in himself." *City of New Orleans v. Palmisano*, 1920, 146 La. 518, 83 So. 789, 791. See also *State v. Chisesi*, 1937, 187 La. 675, 175 So. 453; *City of New Orleans v. Levy*, 1957, 233 La. 844, 98 So. 2d 210; *Banjavich v. Louisiana Licensing Bd. for Marine Divers*, 1959, 237 La. 467, 111 So. 2d 505. When a State constitution gives raw power to a registrar to grant, or to withhold registration as he sees fit, the constitution violates both the due process and the equal protection clauses of the Fourteenth Amendment.

*Yick Wo v. Hopkins* firmly established the principle that the unequal enforcement of a law will render the results of the enforcement void. In *Yick Wo*, convictions were overturned without a declaration that the ordinance itself was invalid, assuming possible non-

discriminatory enforcement. But the doctrine of nondiscriminatory enforcement of a law has never been limited to nullifying the effects of the law. Indeed, a Maryland case, extensively quoted in *Yick Wo* concerned the invalidation of an ordinance granting unrestrained power to the city government to issue permits for boilers. *Baltimore etc. v. Radecke*, 49 Md. 217. *City of New Orleans v. Palmisano.*

In sum, some laws may never win constitutional approbation, because they have no rational relation to a legitimate governmental objective and because the unrestrained discretion without standards, they grant an officeholder makes them incurably subjective, unreasonable, and incapable of equal enforcement. The understanding and interpretation test is such a law.[89] Although the vote-abridging purpose and effect of the test render it *per se* invalid under the Fifteenth Amendment, it is also *per se* invalid under the Fourteenth Amendment. The vices cannot be cured by an

[89] A keen student of the South and the acknowledged leading authority in the field of Southern politics writes: "Tests supplementary to literacy—ability to understand; explain, or interpret the constitution— . . . [b]orn of a union of constitutional fraud and political ineptitude . . . must in their nature be cloaks for the arbitrary exclusion of voters or tests for the possession of useless knowledge. . . . [I]f any test of understanding were applied at all to any substantial number of citizens of status, the registrars would be hanged to the nearest lamp post and no grand jury could be found that would return a true bill. Suffrage requirements that cannot be made at least to appear nondiscriminatory in their application will sooner or later fall before the constitutional ban on racial discrimination." Key, Southern Politics 577 (1949).

injunction enjoining its unfair application. The necessary relief, therefore, is to declare the test invalid and enjoin its enforcement in Louisiana.

## VII.

We come now to consideration of the new citizenship test.

By resolution of August 3, 1962, in compliance with Act 62 of 1962,[90] the State Board of Registration adopted a voter-qualification test, apparently tailored to fit this case should the interpretation test be held unconstitutional. The resolution and the statute do not, and could not, affect the constitutionality of the interpretation test. That test is still the law of the State; so there is no question of mootness. The new requirement rests on an understanding and interpretation of the Constitution of United States as a whole. The statute requires the Board to prepare "an objective test of citizenship". The Board in its resolution of August third directed the registrars to use

[90] Act 62 of 1962 amended LSA-R.S. 18:191 to provide that the Board of Registrars "shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government. . . ." A constitutional amendment to the same effect was adopted at the state-wide general election held on November 6, 1962.

The provisions in the Louisiana Constitution and statutes setting out the interpretation test as a requirement for voter registration remain unchanged. The new constitutional provision amends Article VIII, section 18 while the interpretation test is found in Article VIII, section 1(d); the statutory change adds the new requirement to LSA-R.S. 18:191, leaving untouched LSA-R.S. 18:35, the provision containing the test under attack.

the new test, pointing out that Louisiana law prescribes as one of the qualifications for registration that the applicant "shall be of good character, and shall understand the duties and obligations of citizenship under a republican form of government". This qualification has been in the Constitution, unimplemented, since 1898.

The Board's "Instructions to registrars" require an applicant to draw one of ten cards. Each card has six multiple-choice questions, four of which the applicant must answer correctly. There are a total of forty-three different questions in various combinations. This test is considerably more difficult than the "tests" administered to white applicants in the past, in that it requires a comprehension of the theory of the American system of government and a knowledge of specific constitutional provisions.[91] The sort of answers shown by the evidence to have been accepted in the past from white applicants would be unacceptable now under a fair administration of the test. Considering Louisiana's unhappy position as the State with the highest rate of illiteracy and the

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[91] These are some of the questions. No. 2: "Limits are placed on the right to vote by the (a) National Government (b) States (c) Courts." No. 14: "The Articles of Confederation are (a) the Constitution we now have (b) a plan for State government (c) an early plan of government for the original 13 States". No. 16: "Our Constitution has been changed (a) by the President (b) by the Congress and the people (c) by the Supreme Court". No. 35: "The United States Supreme Court is made up of (a) 9 Justices (b) 6 Justices (c) 5 Justices.

lowest percentage of citizens with a high school education, the citizenship test can be regarded as a step forward only by those in favor of a severely limited representative government of guardians elected by a small, elite assembly.

It is no small constitutional problem to define "a republican form of government" and determine if the Board's new test measures fairly an applicant's understanding of the "duties and obligations of citizenship under a republican form of government." The Supreme Court had trouble defining a "republican form of government", or so it seemed to say.[92] We reserve judgment therefore on the constitutionality of the new examination. Although we need not pass on the constitutionality of the "citizenship test" itself, we must consider the constitutional effect of this new action on those who have been discriminated against in the past. The object of this suit is not only to prevent future injustices but to rectify past injustices.

In the twenty-one parishes which used the interpretation test, there are few Negroes registered. In all of the parishes this is a result of the policy of initially registering as many white persons and as few Negroes as possible. In some of the parishes it is also a result of past discrimination in purging the rolls of

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[92] *Pacific States Tel. & Tel. Co. v. Oregon*, 1912, 223 U. S. 118, 32 S. Ct. 224, 56 L. Ed. 377. See also *Minor v. Happersett*, 1874, 21 Wall. 162, 88 U.S. 162, 22 L. Ed. 627; *Texas v. White*, 1868, 7 Wall. 700, 74 U. S. 700, 19 L. Ed. 227; *Luther v. Borden*, 1849, 7 How. 1, 48 U.S. 1, 12 L. Ed. 581; The Federalist 49 (Editor's Introduction; Wright Ed. 1961).

Negro but not white registrants, as a first step; and, as a second step, preventing the re-registration of Negroes (but not white applicants) by an arbitrary administration of the interpretation test. Moreover, we cannot overlook the inhibiting effect of discriminatory registration practices on Negroes everywhere in Louisiana who would otherwise have tried to register.

A major change in the standards of voting qualifications is usually followed by a general re-registration of all voters. This practice prevents previously registered voters, who are unacceptable under the new standards, from remaining on the rolls while those with equal or superior qualifications are denied suffrage. Thus, complete re-registration was used in 1898 to wipe clean the rolls and prevent the re-registration of Negroes under the new standards. Similarly, when the qualifications were formally altered in 1921, the State required the re-registration of all voters. Except in the parishes with periodic registration, there has been no complete re-registration since the interpretation test was resurrected in the middle fifties. In no parish has there been re-registration since the introduction of the new test. Of course, general re-registration would in large measure destroy the continuing usefulness of the past discriminations designed to keep Negroes off of the registration rolls. Yet the new test, or any other procedure more demanding than those previously applied to the white applicants, will have the effect of perpetuating the differences created by the discriminatory practices

of the past; most of the potential white voters are on the rolls but few if any of the potential Negro voters are on the rolls. As in *Gomillion v. Lightfoot* and *Lane v. Wilson*, the necessary effect of the new law, regardless of its fair facade, is built-in unconstitutional discrimination.

The cessation of prior discriminatory practices cannot justify the imposition of new and onerous requirements, theoretically applicable to all, but practically affecting primarily those who bore the brunt of previous discrimination. An appropriate remedy therefore should undo the results of past discrimination as well as prevent future inequality of treatment. A court of equity is not powerless to eradicate the effects of former discrimination. If it were, the State could seal into permanent existence the injustices of the past.

A good example of the principle that the abolition of one variety of discrimination does not justify the imposition of another is *Lane v. Wilson*. After the Supreme Court in *Guinn* struck the grandfather clause from the Oklahoma Constitution, Oklahoma required all qualified persons not registered at a time when that clause was in effect to register within twelve days or be permanently disenfranchised. Most of the eligible whites were already registered but most eligible Negroes were not. In declaring unconstitutional the second Oklahoma attempt to bar Negroes from the ballot box, the Supreme Court said:

"Exemption from this onerous provision was

> enjoyed by all who had registered in 1914. But this registration was held under the statute which was condemned in the *Guinn* case. Unfair discrimination was thus retained by automatically granting voting privileges for life to the white citizens whom the constitutional 'grandfather clause' had sheltered while subjecting colored citizens to a new burden." 307 U. S. 276, 59 S. Ct. 876, 83 L.Ed. 1281.

In *Guinn* and *Lane* no past wrongdoing could be imputed to the State because denial of the suffrage to Negroes was legal before 1866—the "freezing" date. The instant case cries louder for relief because the citizenship tests freeze the results of past *illegal* practices.

Recently, in Mississippi, a sheriff, as an ex-officio poll tax collector, had instituted a new policy requiring that individuals paying the poll tax for the first time see him personally. He maintained two offices and was seldom at either office. Speaking for the Fifth Circuit, Judge Bootle, sitting by designation, declared:

> "This new policy, while purporting to apply to Negroes and whites indiscriminately, actually operates to the disadvantage of Negroes on account of their race, as did the previous instruction. Substantially, all of the 5,099 white persons of voting age who were liable to pay a poll tax have been permitted to do so while not one of the County's 6,483 Negroes of voting age has been listed as paying the tax. Obviously, a blanket requirement that all persons who have never

> paid the poll tax before, that being a relatively small percentage of white people and all Negroes, who now desire to pay their poll tax for the first time must see the Sheriff personally operates unequally and discriminatorily against Negroes. . . . Sheriff Dogan's new instructions by necessary result re-creates and perpetuates the very discrimination which prevailed under his former instructions and practices." *United States v. Dogan*, 1963, 5 Cir. 314 F.2d 767.

In *United States v. Atkins*, 1963, 5 Cir. 323 F. 2d 733, the Court of Appeals for this Circuit, recently quoted *Dogan* with approval on freezing although it declined to apply the principle:

> "We do not dispute the power of the federal courts to invoke the freezing principle to give relief when necessary. It has been used before in voting cases. . . ."

Insofar as freezing is concerned, *Atkins* is distinguishable from the instant case on the facts and on the relief sought. In *Atkins*, the Court of Appeals noted that (1) it would be feasible to purge the registration lists in Dallas County of "those persons proved by the appellant to have been registered by a procedure which does not meet the minimal requirements of state law"; (2) "[t]he procedure of the Registrars which would have the greatest freezing effect was the practice of not allowing rejected applicants to reapply", a practice the district court has now eliminated; (3) "other [discriminatory] practices soon will be eliminated"; (4) "The only remaining freezing

effect could come as a result of differences of practices allowable within the zone of permissible interpretation of Alabama law", but "[w]here . . . or how strictly the Board will interpret Alabama law, is yet to be determined". In *Atkins*, the United States asked the Court to order the Board of Registrars "to register Negroes in the future who possess the qualifications required of whites during the period 1952-60". The Court objected to making "a permanent fixture in Dallas County" of practices violative of state law. Here, as will be developed later in the opinion; the relief does not have such an effect and is restricted in its application. Moreover, *Atkins* was a "pattern and practice" case under Section 1971 in which the district court held that the current Board of Registrars had not discriminated against Negroes, a finding undisturbed by the Court of Appeals. Finally, in *Atkins*, the question was whether a Board of Registrar should be required to violate a *valid* state law in the future because predecessor boards of that county had violated the *same* law in the past; here, the issue as to the citizenship test is whether a state may raise the standards for registration by enacting a new law which has the inevitable effect of freezing discrimination under an *unconstitutional* prior law. A *fortiori*, *Lane v. Wilson* squarely covers the case before this Court.

In *United States v. Lynd*, 5 Cir. 1962, 301 F.2d 818, cert. den'd, 1963, 371 U. S. 893, 83 S.Ct. 187 9 L.Ed. 2d 125, this Court entered a temporary in-

junction, pending appeal, restraining a Registrar from

> ". . . failing or refusing to give to Negro applicants the same privileges as to reviewing their application forms at the time they are filled out and advising Negro applicants of such omissions as appear on their forms as they are now *or heretofore have given to white* applicants under similar circumstances. . . ." (Emphasis added.)

After this injunction pending appeal was issued, the Mississippi Legislature amended Section 3213 of the Mississippi Code to make mandatory the requirement that applicants fill out their application form without assistance. The amendment adds the requirement that no application can be approved or applicant registered unless all the blanks on the form are "properly and responsively" filled out by the applicant. July 15, 1963, the Court extended the injunction, pending further proceedings in the District Court, and held the defendant in civil contempt. The Court's two orders of July 15, 1963, restrained the defendant in precisely the same language as that quoted above.

Again, in *United States v. Penton*, M.D. Ala. 1962, 212 F. Supp. 193 the district court found that while prior to February 1961, the Board of Registrars of Montgomery County, Alabama, had not required perfection in completing the application form, as of that date "the Board raised the standard to require a perfect application." 212 F. Supp. at 197. During the earlier period the Board had used the application form "as a tricky examination or test" for Negroes only, and "[i]f a Negro applicant failed to meet the

standard required of him, he was denied registration regardless of whether the error or omission on the form was formal, technical, or inconsequential." White applicants, unlike Negroes, had been assisted in manifold ways. With respect to past and future Negro applicants, Judge Johnson applied "standards consistent with past practices." Id. at 200 of 212 F. Supp. *He enjoined the defendants "from using . . . different and more stringent qualification requirements for registration . . . than . . . [those] used by the Board . . . since at least January 1, 1956." United States v. Penton,* (M.D.Ala., 1962), 212 F. Supp. 193.

*Ross v. Dyer,* 5 Cir. 1962, 312 F.2d 191, presented an analogous situation. The Court had before it the brother-and-sister rule of the Houston public school system, a long-standing rule requiring a child to attend the school which his older siblings attended. The rule was one "of long standing applied to white and Negroes alike". This Court observed:

> "On the basis of the evidence which showed it to be a rule of long standing applied to white and Negroes alike, the District Judge in his memorandum opinion reasoned that 'the colored plaintiffs do not seek the same treatment as is afforded white students, to which they are entitled; in fact, they seek a different, and superior, treatment, by reason of their race. The law does not grant them this.' But we think that logic alone is insufficient to overcome the practical effect of this rule which as to some Negro families perpetuates a segregated system despite the plain purpose of the stair-step plan to ameliorate it.

> That it applies equally to white and Negro overlooks the fact that as to one group, *compulsory attendance at certain schools has been the result of unconstitutional discrimination. The purpose of the court decree is to eradicate that unconstitutional deprivation of equal protection, no matter how felt or manifested.* (Emphasis added.)

In insisting that registrars not apply now to Negroes a difficult test which was never applied to white registrants, there is no more compulsion of state officials to violate state law here than there was in *Yick Wo*. Enforcement of the citizenship test at this point would be just as discriminatory against Negroes as enforcement of the San Francisco licensing ordinance directed against Chinese laundrymen would have been in *Yick Wo*. The validity of the ordinance requiring a license for a laundry operated in a wooden building could be asserted only after a relicensing of all laundries on a nondiscriminatory basis. Allowing white laundrymen who had been favored in the past to remain licensed would have perpetuated the discrimination. Thus, although the application of the ordinance was enjoined, the ordinance itself was unconstitutional in the sense that its enforcement had the necessary effect of violating the constitution until the State revoked all outstanding licenses and thereafter issued new licenses nondiscriminatorily.[93] So it is here.

In short, the obligation of the State to abolish its system of racial discrimination in voting registra-

[93] See Comment, The Federal Voting Referee Plan, 72 Yale L. Jour. 770, 782-84 (1963).

tion is not met simply by a process of applying new and higher standards to all future applicants. The new tests discriminate against Negroes of voting age by subjecting them to standards to which the registered applicants (most whom are white) were not subjected. The promise of evenhanded justice in the future does not bind our hands in undoing past injustices.

## VIII.

This brings us to the question of fashioning an appropriate remedy.

The power of Congress to adopt Civil Rights measures for protection of the electoral process against debasement by discrimination is expressly granted in the Fifteenth and Fourteenth Amendments. It is no housekeeping power. The sweep of the "appropriate legislation" clause is no less than the sweep of the "necessary and proper" clause. The protection of the right to vote, without regard to race, is important to the individual, but the Nation has the paramount interest in the integrity of the electoral process. These considerations argue against a grudging, narrow remedy. So that the will of Congress will be clear to the courts, Section 1971 (e) expresssly states:

> "This subsection shall in no way be construed as a limitation upon the existing powers of the court."

Thus, in addition to the specific remedy provided in the Civil Rights Act, courts retain an undiminished authority to grant suitable equitable relief that will

both rectify past inequities now, without delay, and will prevent future inequities. See *State of Alabama v. United States*, 5 Cir. 1962, 304 F.2d 583, aff'd 1962, 371 U. S. 37, 83 S. Ct. 145, 9 L. Ed. 2d 112.

Remedies suited to past litigation are not appropriate here for several reasons. (1) It is impracticable, if not impossible, and in any event it would create hardships, generate endless litigation, and dislocate registration offices, if a wholesale attempt were made to purge the rolls of white persons improperly registered. (2) It would be extremely difficult to establish who was unconstitutionally purged for failing to take the interpretation test. (3) It would be next to impossible to establish which qualified Negroes were rejected for failure to understand or interpret a constitutional provision to the satisfaction of the registrar, because in many parishes inadequate records are maintained by the registrars. (4) It is completely impossible to ascertain how many and which qualified Negroes were deterred from seeking registration, knowing that they had no chance of succeeding, since other qualified Negroes were kept off of the rolls by the practice of racial discrimination. In many respects, the last factor is the most important:

> "Discrimination by a registrar is especially harmful because it is the most effective method for denying the right to vote: it denies the right to vote before an individual has the chance to exercise it, and it bars not only the individual concerned from all elections but inhibits other qualified voters from running the guantlet of

discriminatory and humiliating practices by a registrar and his deputies." *United States v. Manning*, W. D.La. 1963, 215 F. Supp. 272, 288.

A nondiscriminatory re-registration of all voters in the State would be the only completely fair and effective means of clearing away the effect of the interpretation test and of applying the new citizenship test. In a general registration the State could require any new, reasonable non-discriminatory qualifications. However, this Court adheres to the principle that only to the extent clearly necessary should federal courts interfere with established state and local procedures. Accordingly, *as to the citizenship test*, we restrict our order to the twenty-one parishes in which the interpretation test was used and we cast our order so as to afford an option to the State. In any of the twenty-one parishes where the interpretation test was used, there need be no general re-registration. However, until there is a general re-registration of all voters in a parish where the test was used, or until the discriminatory effect of the test has been vitiated to the satisfaction of the court, we enjoin the use of the citizenship test. We narrow our order further, in the interest of equalizing the qualifications for registering, by restricting the injunction against the use of the citizenship test to the registration of those persons who were of voting age and who had the required residence in the parish prior to August 3, 1962; that is the period in which they were exposed to discrimination.

This is a suit in equity. Its purpose is not to

punish Louisiana for past activities. Such a purpose would be presumptuous on the part of the Court and offensive to principles of American federalism. Neither is it merely to prevent continued enforcement of unconstitutional provisions of Louisiana law. The prime purpose is to provide a remedy for a *federally* protected right by giving equitable relief: opening the rolls for those to whom the rolls were illegally closed, those who were directly discriminated against by rejection of their applications and those who were inhibited from attempting to register because of known humiliating discriminatory practices of registrars. Finally, we repeat that this decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting. Our order forbids enforcement of the citizenship test until Negro applicants can be judged by the same standards used in qualifying those persons already registered. In that sense the the court is cooperating with the State in laying a predicate for the fair application of a voting qualification which the State is now endeavoring to convert into an objective test with ascertainable, although unusually high, standards.

## IX.

We summarize our holding. The Court holds that the interpretation test is unconstitutional because of its unlawful purpose, operation, and inescapably discriminatory effect. We enjoin its use in Louisiana. To make this decree effective and to exorcise past discrimination, the Court enjoins the use of the "citizen-

ship test" in the Parishes of Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn as to all persons of voting age who had the requisite residence in the parish before August 3, 1962. These are parishes where the registrars used the interpretation test. We enjoin the use of the citizenship test in the named parishes until there has been a general re-registration of all voters in a named parish, or until it has been shown, to the satisfaction of the court, that the interpretation test has lost its discriminatory effect in the parish.

This Court retains jurisdiction for the purpose of allowing the United States to prove and the State to disprove that the interpretation test was used in any of the forty-three parishes not named in the Court's decree, *and for other purposes.*

Formal findings of fact and conclusions of law will be entered at a later date.

S JOHN MINOR WISDOM
United States Circuit Judge

S HERBERT W. CHRISTENBERRY
United States District Judge

E. GORDON WEST dissenting:

I respectfully dissent. Reasons to be assigned.

S E. GORDON WEST
United States District Judge

# UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

**No. 2548**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF LOUISIANA;
JIMMIE H. DAVIS, C. C. AYCOCK,
J. THOMAS JEWEL, AS MEMBER OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA, and HUGH E. CUTRER, JR., DIRECTOR AND EX OFFICIO SECRETARY OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA,

Defendants.

* * * * * * * * * * *

WEST, District Judge, Dissenting:

I respectfully dissent. Reasons to be assigned.

When the majority decision was filed in this case, I announced that I dissented and would assign reasons therefor. This Three Judge Court originally had before it only the question of the constitutionality of Louisiana's constitutional interpretation test, La. Const. of 1921, Art. VIII, Sec. 1(d) and LRS Title 18, Sec. 35, as used to determine voter qualifications. After this matter had been briefed and submitted, the Govern-

ment suddenly injected another issue, i.e., the question of the constitutionality of Louisiana's new citizenship test, LSA-R.S. 18:191, as amended by Act 62 of 1962, as a State qualification for voting. I objected to the Court's considering the question of the constitutionality of the new citizenship test on the grounds that no "case or controversy" had arisen thereunder, and that therefore, the question of its constitutionality was not properly before the Court at this time. However, the majority of the Court decided otherwise, and has now held that the constitutional interpretation test, as provided for in Art. VIII, Sec. 1(d) of the La. Const., and in LRS Title 18, Sec. 35, is "*per se* invalid under the Fifteenth Amendment", and that "it is also *per se* invalid under the Fourteenth Amendment". The majority further holds that "the vices cannot be cured by an injunction enjoining its unfair application". As to the lately injected issue concerning the constitutionality of the citizenship test, the majority specifically state that "[T]his decision does not touch upon the constitutionality of the citizenship test as a State qualification for voting", but then proceed to forbid the enforcement or use of that test until the State "satisfies this Court" that what it considers "errors of the past" have been corrected.

The majority opinion, including footnotes, comprises some 93 pages, most of which is completely immaterial to a decision of this case. When the majority of the Court finds that the constitutional interpretation test is "*per se* invalid", there is, of course, no

reason to delve into the past history and usage of the test. For an act to be "*per se*" invalid, it must be invalid in itself; it must be invalid when taken alone; it must be inherently invalid; and it must be invalid in itself without reference to other matters. See Black's Law Dictionary, Fourth Edition. Consequently, if the act is, as the majority holds, invalid *per se*, then it must be invalid on its face, and in itself, and thus the question of the method of its administration is wholly immaterial.

That the constitutional interpretation test used by Louisiana is not, however, "per se invalid" becomes quite clear when viewed in light of prior holdings of the United States Supreme Court. It is sometimes difficult to decide whether to rely on the law as the Supreme Court interpreted it a few years ago, or to rely on it as interpreted last week, or to speculate on how they might interpret it tomorrow. However, in this instance, relative to a citizen's right of suffrage, I prefer to believe the law to be as interpreted by the United States Supreme Court on many occasions in the past. In rejecting the proposition that the Fourteenth Amendment added the right to vote to the privileges and immunities of citizenship, the Supreme Court, in *Minor v. Happersett*, 21 Wall. 162, 177, 88 U. S. 162, 177, 22 L. Ed. 627, said:

> "Certainly, if the Courts can consider any question settled, this one is. For nearly 90 years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uni-

> form practice, long continued, can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done [so] here. Our province is to decide what the law is, not to declare what it should be."

Then, in *United States v. Reese*, 92 U. S. 214, 23 L. Ed. 563, 564, in disposing of the argument that the right to vote was conferred by the Fifteenth Amendment to the United States Constitution, the Supreme Court said:

> "The Fifteenth Amendment does not confer the right of suffrage upon anyone."

And then, in *McPherson v. Blacker*, 146 U. S. 1, 39, 13 S. Ct. 3, 36 L.Ed. 869, the United States Supreme Court once more recognized the fact that it was within the province of the State, and not the Federal Government, to determine voter qualifications. In the course of its opinion, it said:

> "The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the state."

In a long line of unbroken jurisprudence beginning in 1874, the United States Supreme Court has consistently recognized that the privilege of voting is conferred upon citizens by the States, and that the United States Constitution does not confer upon anyone the privilege of suffrage. In *Pope v. Williams*, 193 U. S. 621, 632, 24 S. Ct. 573, 575, 48 L.Ed. 817, the Court said:

> "The privilege to vote in any State is not given

> by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. . . . It may not be refused on account of race, color, or previous condition of servitude; but it does not follow from mere citizenship of the United States."

Therefore, insofar as the majority opinion seems to indicate that somehow, the right to vote is guaranteed by the United States Constitution, I respectfully suggest that the majority is in error. In view of the fact that the privilege of voting emanates entirely from the States, and not from the Federal Government, and in view of the fact that the judicial function is properly exercised only by indicating whether or not the State has transcended provisions of the Federal Constitution, it follows, just as the night follows the day, that the role of the Federal Court is not to direct the State in the procedures to be used in registering voters. The Supreme Court has held that the "conditions under which the right of suffrage may be exercised" lies with the States. *Lassiter v. Northampton Board of Elections*, 360 U. S. 45, 50, 79 S. Ct. 985, 989, 3 L.Ed. 2d 1072.

The majority opinion is so lengthy, and involves so many extra-judicial discourses, that it is rather difficult to determine whether it holds that the State constitutional provision and the State Statute establishing the constitutional interpretation test are unconstitutional in themselves, or whether it holds merely that these State laws have been unconstitutionally administered. I must conclude, however, that the ma-

jority intended to hold, as they stated near the close of their opinion, that the constitutional interpretation test is "*per se* invalid under the Fifteenth Amendment, and it is also *per se* invalid under the Fourteenth Amendment" of the United States Constitution. This being the case, the prior history of voting requirements in Louisiana, as discussed at great length in the majority opinion, is completely immaterial. If these laws are invalid *per se*, then it matters not how they were administered. No method of administration could validate a law which is invalid *per se*. If, however, the majority intended to hold, contrary to their specific statement concerning invalidity *per se*, that the test is unconstitutional because of improper application, then, in view of their ultimate order in connection with the State's use of the new citizenship test, it is difficult to understand why they did not merely enjoin the improper application of the constitutional interpretation test in the twenty-one Parishes where they found that it had been improperly applied. As will later be noted, they had no hesitancy in dividing the State into sections and holding that the new citizenship test may be applied in some Parishes of the State while it may not be applied in other Parishes. In line with this reasoning, if the constitutional interpretation test is bad only because of its improper use, then the improper use should have been enjoined only in the twenty-one Parishes where it had been improperly applied, and the remaining Parishes of the State should not have been interfered

with in their use of that test. If, as stated by the majority, they actually found that the constitutional interpretation test was "invalid per se", they need only to have said so, and then, the application thereof becomes completely irrelevant because as heretofore pointed out, there is no way that an unconstitutional statute may be constitutionally applied. On the other hand, if the statute itself is per se constitutional, then I cannot agree that the "vices cannot be cured by an injunction enjoining its unfair application". I believe that a Court should be most reluctant to declare unconstitutional the statutes and constitutional provisions of a State, and should do so only when the statute and/or the constitutional provision involved is clearly in contravention of the United States Constitution. In *Cummings v. Merchants National Bank*, 101 U.S. 153, 25 L. Ed. 903, the United States Supreme Court held that a law is not to be held unconstitutional merely because of unfaithful administration. It held that a statute, valid as to one set of facts, may be invalid as to another. That is, its application may be valid or its application may be invalid, notwithstanding the constitutionality of the statute itself. In *Kansas City Southern Ry. Co. v. Anderson*, 233 U. S. 325, 34 S. Ct. 599, 58 L. Ed. 983, the Supreme Court considered and strongly rejected the contention that to hold that a statute has been unconstitutionally applied under one specific set of facts is tantamount to holding that the statute itself is invalid.

I must therefore respectfully disagree with both

the findings and the conclusions of the majority insofar as the validity of the constitutional interpretation test as used in the State of Louisiana is concerned. While it may well be that there have been many instances of improper applications of that test, nevertheless, such improper applications do not, in my opinion, render the laws themselves unconstitutional. If, as I believe to be the case, the constitutional interpretation test is not unconstitutional per se, then only the improper application of the test should have been enjoined. I prefer to believe that the Supreme Court of the United States meant what it said in the cases which I have cited, and in the many, many other cases that might have been cited to the same effect, namely, that the right remains with the States to decide and declare the requirements for voter registration. I prefer to believe that the function of the Court is merely to decide, in each specific case, whether or not the State has transcended the prohibitions contained in the United States Constitution, and if such is found to be the case, to order, by injunction, if necessary, the termination of such discriminatory practices. I do not believe that it is a proper function of the Court to establish by decree the qualification requirements of voters in the State of Louisiana. That, in my opinion, is precisely what the majority of the Court in this case does.

After concluding that the constitutional interpretation test is "invalid per se", the majority then proceed to a consideration of the validity of the new

citizenship test, despite the fact that there were no allegations, nor could there be, that the citizenship test was either unconstitutional or improperly applied. Indeed, the majority specifically states that it does not "touch upon the constitutionality of the citizenship test as a State qualification for voters", but then proceeds to prohibit its use in twenty-one Parishes in the State of Louisiana. It is too elementary to require citation of authority that a statute properly passed by a State Legislature is presumed to be constitutional until such time as it is found to be unconstitutional. This Court has not found the citizenship test to be unconstitutional, and thus, it must, of course, be presumed to be constitutional. If the test is, in fact, constitutional, as it must be considered to be in light of the Court's failure to find it unconstitutional, then, it is a complete mystery to me where the Court finds its authority to enjoin its use. If the majority has found that the constitutional interpretation test is unconstitutional because of its improper use, a conclusion with which I strenuously disagree, then by the same token, I suppose, they could have found that the citizenship test is unconstitutional because of improper use. However, the Court does not find that the citizenship test has been improperly used, and in fact, they have not found it to be unconstitutional in any way whatsoever. Nevertheless, in spite of this fact, the majority takes the position that the use of this new test in the twenty-one Parishes where they considered the constitutional interpretation test to have been improperly applied, would result in contin-

ued discrimination unless all voters were purged from the rolls and a complete new re-registration of all voters, using the new citizenship test, were accomplished. The majority decrees that the new citizenship test may not be used "until the discriminatory effects of the test has been vitiated to the satisfaction of the Court". In other words, it would seem that in order to comply with this order, the new citizenship test, even though constitutional in every respect, may not be used until the case of every single voter on the rolls in twenty-one Parishes has been submitted to the Court for a determination of whether or not each individual voter has been properly registered to vote, without discrimination. I simply cannot agree that this is a function properly within the ambit of the authority of this Court. Anyone has a right to claim discrimination, and when discrimination has been claimed, he has a right to his day in court. But until such a case or controversy has been presented, the Court simply has no right to intervene. The majority opinion states: "The ordered society our Constitution establishes does not permit one man to have uncontrolled power over his fellow citizens. When the State clothes a registrar with omnipotence in deciding the qualification of voters, it has enacted 'not a law, but an attempt to make the arbiter in such a case the law in himself'." The majority opinion would merely refuse to allow the registrar to be "a law in himself", and substitute, in his stead, this Court. This opinion can have no other effect than the taking over by this Court of the functions of the State when it

comes to determining the qualifications required for voter privileges. The majority opinion further states: "This Court adheres to the principle that only to the extent clearly necessary should Federal Courts interfere with established state and local procedures." I can only say that if the majority means what it says in this statement, it must surely have failed to read its own opinion. The majority opinion says, in effect, that whenever a State wishes to alter or improve its voting requirements, it may do so only if it has a complete re-registration of everyone on the rolls throughout the entire State. This proposition has been rejected by the Fifth Circuit Court of Appeals in *U. S. v. Atkins, et al*, 323 F. 2d 733 (1963). The majority opinion attempts to distinguish the present case from the Atkins case, but in my opinion fails completely to do so. The Atkins case specifically rejects the proposition that a State may not alter its voting requirements without re-registering all voters in the State. They try to distinguish Atkins on the grounds that in that case the question was whether a Board of Registrars should be required to violate a *valid* State law in the future because a predecessor board of that county had violated the *same law* in the past. They then go on to say that the difference between that case and the present case is that the issue here is whether a State may raise the standards for registration by enacting a new law which has the necessary, inescapable effect of freezing discrimination under an *unconstitutional* prior law. They failed to recognize the fact that the law establishing the constitu-

tional interpretation test used by the State of Louisiana and under which the majority now holds there were instances of dicrimination, was not an "unconstitutional law" until this present decision was handed down. The very same law had been specifically held to be constitutional in the case of *Trudeau v. Barnes*, 65 F. 2d 563 (CA5 1933). All action by the State of Louisiana taken pursuant to that law was, prior to the filing of this decision, taken pursuant to a statute which the Federal Court, Fifth Circuit, had specifically held to be constitutional. In the Trudeau case the Court said:

> "It is at once apparent that the clause of the State Constitution which is under attack applies to all voters alike, denies to none of them the equal protection of the laws, does not undertake to deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude. It is difficult to conceive how this clause can be said to violate either the Fourteenth or the Fifteenth Amendment. It lays down but one test, that of intelligence, which applies uniformly and without discrimination to voters of every race and color. . . . The Louisiana Constitution protects every citizen who desires to register from being arbitrarily denied that right by the registrar of voters by giving the applicant a right to apply without delay and without expense to himself to the trial court for relief, to submit his qualifications to vote to a jury, and to have them finally passed upon by an appellate court. It is idle to say that the defendant as registrar had the ar-

> bitrary power to deny plaintiff the right to vote. We cannot say, and refuse to assume, that, if the plaintiff had pursued the administrative remedy that was open to him, he would not have received any relief to which he was entitled. . . ."

Consequently, the distinction attempted to be drawn by the majority to distinguish the Atkins case is simply not valid. The effect of the majority order in this case, that the State of Louisiana may not use the new citizenship test in the twenty-one Parishes involved, is to order the State to violate an existing, valid law until this Court tells them that they need no longer violate it. The citizenship test, as of now, is valid and has not been held invalid by any court, including this one. Therefore, for this Court now to order the State to refrain from using that test is to order them to violate a valid existing law of the State of Louisiana. In my judgment, the opinion of the majority in this case is just another example of the "personal decreeing" so bitterly criticized by Judge Hutcheson in his dissenting opinion in *Lee v. United States of America*, (Sept. 17, 1963), 5 Cir., 322 F.2d 770. I concur completely with the remarks of Judge Hutcheson contained therein.

In brief, I cannot sanction the take over by this Court of the functions of the State whereby this Court attempts to establish, and administer, as well as to adjudicate the State laws relative to voter registration. I believe that this Court should confine its activities to the judicial determination of cases and controversies as obviously contemplated by the limited

jurisdictional grant contained in the United States Constitution.

I can do no more than to concur with Judge Bell's dissent in *Davis v. Board of School Commissioners of Mobile County*, 322 F. 2d 356, 362 (CA5 1963), when he said: "Therefore, I must dissent . . . with the admonition that more constitutional rights will be lost than gained in the long run by departure from procedures which have stood the test of time, and which are a part of due process of law as we have heretofore known it," and to concur with Judge Cameron's dissent in *Sharp v. Lucky*, 252 F. 2d 910, 924 (CA5 1958), wherein he said: "This sad epoch in our history [post Civil War] was fomented in no small part, by well-intentioned men in too much of a hurry."

I must, for these reasons, respectfully dissent.

Baton Rouge, Louisiana, December 31, 1963.

/S/ E. GORDON WEST
United States District Judge

# In the Supreme Court of the United States

OCTOBER TERM, 1963

No. 1073

STATE OF LOUISIANA, ET AL., APPELLANTS

*v.*

UNITED STATES OF AMERICA

*ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA*

## MEMORANDUM FOR THE UNITED STATES

This is a direct appeal from a judgment of a three-judge district court which (1) holds unconstitutional those provisions of Article 8, Section 1(d) of the Louisiana Constitution, as amended in 1960, which require of an applicant for registration as a voter the ability to "understand and give a reasonable interpretation" of any section of the Constitution of the United States or of Louisiana, and those provisions of the Louisiana statutes pertaining to the understanding or interpretation test as a prerequisite to registration; (2) enjoins appellants (the State of Louisiana, the members of the Louisiana Board of Registration, and the Director and Ex Officio Secretary of the Board) and their



732-684—64

agents and successors from enforcing the foregoing constitutional and statutory provisions; and (3) enjoins appellants and their agents and successors, including the registrars of voters in the 21 Louisiana parishes which used the interpretation test, from requiring, in such parishes, any applicant for registration who was of voting age and possessed the residence requirements as of August 3, 1962, to take a multiple-choice "citizenship" test adopted on August 3, 1962 (in compliance with La. Acts 1962, No. 62), after the complaint in this suit had been filed. The decision also upholds the standing of the United States to sue and the propriety of joining the State as a defendant under Section 601(b) of the Civil Rights Act of 1960 (74 Stat. 90, now incorporated in 42 U.S.C. (Supp. IV) 1971(c)).

Although in our view the judgment below is correct, the importance of the case and of the questions tendered renders plenary review appropriate. The basic objective of the suit is to halt the use of a test which, the majority below concluded, followed in the footsteps of the grandfather clause and the white primary as a device to disfranchise Negroes in Louisiana. Not only have the constitutional and statutory provisions pursuant to which the test was applied been invalidated and use of the test enjoined throughout the State, but appellants also have been enjoined from using, in 21 parishes of the State, a new statutory test to determine the qualifications of voters. Thus, the issues are obviously of considerable moment.

The decision below is in conflict with the decision of the three-judge district court in *United States* v.

*State of Mississippi*, Civil Action No. 3312, S.D. Miss., decided March 6, 1964, in which an appeal to this Court is pending (No. 1097, this Term).[1] In that case, a divided court upheld Mississippi registration requirements very similar to those struck down here (*i.e.*, Section 244 of the Mississippi Constitution, which requires as a prerequisite to registration that, among other things, the applicant be able to give a reasonable interpretation of any section of the Mississippi Constitution to the county registrar). That court rejected claims that the Mississippi provisions vested unlimited discretion in the registrar, provided no objective standards for administration and were not reasonably related to any legitimate governmental objective, and—like the multiple-choice citizenship test in the present case—that they perpetuated past discrimination by imposing new and more stringent requirements for registration following a long period of racial discrimination, while exempting from the new requirement most of the white citizens. In addition, the court there held that suit would not lie against the State of Mississippi because Section 601 (b) of the Civil Rights Act of 1960, which authorizes suits against a State, applies only where voting registrars have resigned and the State is the only possible defendant, and that, regardless of the parties joined, suit by the United States was unauthorized in that 42 U.S.C. 1971(c) does not empower the United

[1] On May 11, 1964, the United States filed its Jurisdictional Statement in *United States* v. *State of Mississippi*. The several opinions in that case are incorporated in that Jurisdictional Statement as Appendix B.

States to challenge directly discriminatory State laws.[2]

We respectfully submit that the Court should note probable jurisdiction and set the case for argument.

ARCHIBALD COX,
*Solicitor General.*

BURKE MARSHALL,
*Assistant Attorney General.*

HAROLD H. GREENE,
DAVID RUBIN,
*Attorneys.*

MAY 1964.

[2] The filing of this Memorandum would appear to render the present case ripe for notation of jurisdiction. In *United States* v. *State of Mississippi, et al.*, the appellees have until June 10, 1964, in which to file a response to the Jurisdictional Statement.

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No. 67

# In the Supreme Court of the United States

OCTOBER TERM, 1964

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYCOCK, J. THOMAS JEWELL, AS MEMBERS OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA, AND HUGH E. CUTRER, JR., DIRECTOR AND EX OFFICIO SECRETARY OF THE BOARD OF REGISTRATION OF THE STATE OF LOUISIANA,

Appellants,

v.

UNITED STATES OF AMERICA,

Appellee.

## BRIEF FOR THE APPELLANTS

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No. 67

# In the
# Supreme Court of the United States

OCTOBER TERM, 1964

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYCOCK,
J. THOMAS JEWELL, AS MEMBERS OF THE
BOARD OF REGISTRATION OF THE STATE OF
LOUISIANA, AND HUGH E. CUTRER, JR.,
DIRECTOR AND EX OFFICIO SECRETARY OF
THE BOARD OF REGISTRATION OF THE
STATE OF LOUISIANA,

Appellants,

v.

UNITED STATES OF AMERICA,

Appellee.

## BRIEF FOR THE APPELLANTS

## STATEMENT OF THE CASE

Appellants, State of Louisiana: Jimmie H. Davis, C. C. Aycock, J. Thomas Jewell, as Members of the Board of Registration of the State of Louisiana, and Hugh E. Cutrer, Jr., Director and Ex Officio Secretary of the Board of Registration of the State of Louisiana, appeal from the order of the United States District Court for the Eastern District of Louisiana, entered February 4, 1964, declaring a portion of Article 8, Section 1 (d), as amended in 1960, of the Constitution of Louisiana to be invalid and unconstitutional, and issuing a permanent injunction against its use in Louisiana.

The decree further enjoined the use of a new objective, standard and written "citizenship test" (Art. 8, Sec. 18, La. Constitution) in twenty-one named parishes of the State of Louisiana as to persons of voting age who had the requisite residence in the parish before August 3, 1962 until there had been a general re-registration of all voters in the named twenty-one parishes, or until it has been shown that the interpretation test has lost its discriminatory effect in the parish.

The opinion of the United States District Court for the Eastern District of Louisiana decreeing the constitutional requirement that an applicant for voting registration be able to understand and give a reasonable interpretation of any section of the State or Federal Constitution invalid and enjoining its use was rendered on November 27, 1963 and is reported at 225 F. Supp. 355. The dissenting opinion of District Judge West is reported at 225 F. Supp. 398.

This suit was initiated in the United States District Court for the Eastern District of Louisiana to declare invalid a portion of Article 8, Section 1 of the Louisiana Constitution. It was brought pursuant to 42 U.S.C.A. 1971, 20 U.S.C.A. 2201, 42 U.S.C.A. 1971 (d) and 28 U.S.C.A. 1345, and was heard by a three-Judge Court convened under 28 U.S.C.A. 2281 and 2284.

## CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

Article 8, Section 1(c) of the Constitution of

Louisiana and Louisiana Revised Statute 18:35 provide as follows:

> "(c) Character and Literacy
> . . . Said applicant shall be able to read any clause in this Constitution or the Constitution of the United States and give a reasonable interpretation thereof."
>
> "§ 35. Ability to read and interpret constitution
> Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof."

The United States brought this action against the State of Louisiana and the members of the Board of Registration. It was instituted pursuant to the provisions of 42 U.S.C.A. 1971 as amended, and pursuant to 28 U.S.C.A. 2201 (Declaratory Judgments). Defendants filed a motion to dismiss upon the contention that the complaint failed to raise a substantial constitutional question and failed to state a justiciable controversy within the jurisdiction of the three-Judge Court. This Motion was overruled and the cause was heard before the three-Judge Court. In overruling said motion the Court supported its jurisdiction under 42 U.S.C.A. 1971, 28 U.S.C.A. 1345 and 28 U.S.C.A. 2281. The defendants' motion to dismiss alleged the Court had no jurisdiction to claim the relief prayed for under the Federal Declaratory Judgments Act, 28 U.S.C.A. 2201, but this contention was overruled.

On January 28, 1964 the District Court signed, and on February 4, 1964 entered, a final order declar-

ing the invalidity of the understanding and interpretation test, and an injunction restraining its enforcement, and also an order restraining twenty-one named parishes from enforcing as against future applicants for registration the citizenship test in the absence of a complete re-registration of all voters or some other action which would fully correct the so-called discriminatory effects of the interpretation test.

Judge West wrote a dissenting opinion on December 31, 1963. Notice of appeal was filed in the District Court on March 5, 1964.

## ARGUMENT

### I.

The motion to dismiss should have been sustained. See *U. S. v. Mississippi*, 229 F. Supp. 925 (1964). In that case the State of Mississippi contended that Section 601(b) of the Civil Rights Act was unconstitutional as applied to it. Its position is that the Fifteenth Amendment forms the only basis for 42 U.S.C.A. 1971[1] and that this Amendment is directed to persons through whom a State may act and not to the sovereign entity of the State itself.

The State of Mississippi also contended that all legislation by which Congress may choose to implement the Fourteenth Amendment is subject to the same objection and supports these contentions by citation of numerous authorities.[2]

In thoroughly discussing the subject of the constitutionality of Section 601 (b), Circuit Judge Cam-

[1] *U.S. v. Raines*, 362 U.S. 17, 80 S.Ct. 519, 4 L. Ed. 2d 524.
[2] *U.S. v. Mississippi, supra*, Page 934.

eron's conclusion and opinion apply in most minute detail to the very situation in which we find ourselves in this case. He quotes profusely from *Ex Parte Virginia* 100 U.S. 339 and *Ex Parte Young*, 209 U.S. 123, 28 S. Ct. 441, 52 L. Ed 714, and even though these cases principally relate to incidents in which the Eleventh Amendment were involved as a bar to the action brought, the State of Louisiana contends that it does not rely on the Eleventh Amendment. It rather asserts that the legal reasoning which allows individuals to pursue alleged violations of Fourteenth and Fifteenth Amendment rights caused by "State action", despite the provisions of the Eleventh Amendment, is equally applicable to demonstrate the non-liability of the State in the present suit.

Judge Cameron goes on to say:

> "In the latest and only comment on the subject, the Supreme Court of the United States expressly pretermitted any decision on the constitutionality of Section 601(b) in its per curiam opinion in *United States v. Alabama*, 362 U.S. 602, 80 S.Ct. 924, 4 L.Ed. 2d. The Court of Appeals for the Fifth Circuit has taken the same attitude in a direct comment on the same question in *United States v. Atkins*, 323 F.2d 733, in which the Court stated:
>
> > 'In that case *(United States v. Alabama)*, the Supreme Court intimated no views upon "any defenses, constitutional or otherwise, that may be asserted by the State." We follow the same course in the present case.'

Obviously these tribunals consider the question still an open and undecided one."

This same principle applies to this case and for purposes of asserting this right we adopt as argument all of the reasons for these conclusions given by Circuit Judge Cameron in his opinion.

In the Alabama case it is clear that the amendment to the Civil Rights Act, 42 U.S.C.A. 1971(c), authorizing actions such as this to be brought against the State was passed for a particular purpose, i.e., to fill a vacuum caused by the fact that there were no registrars having jurisdiction over Macon County, Alabama. Under several principles of constitutional law this departure from traditional constitutional principles would be held to apply only to the circumstances and conditions which lay behind the Court's holding. There is no such situation here. The registrars are all available and full relief can be had against them and a dismissal of the State from the controversy would in no wise prejudice the granting of the relief sought. In this case the registrar of voters were not even made defendants. We contend that they were indispensable parties and so argued in our motion to dismiss. Besides the State only the Board of Registration has been made a defendant and the only complaint made against the Board is that it has corrected by its resolution of October, 1961 the discriminatory application of the interpretation test alleged in Paragraph 21 of plaintiff's complaint.[3]

[3]This resolution duly promulgated advised and required all registrars of voters in the State of Louisiana to enforce strictly and without discrimination all of the requirements for registration including the interpretation test.

## II.

The State Board of Registration is created by Article 8, Section 18 of the Constitution of Louisiana. Its powers and duties, are set forth therein as follows:

> "The Governor, Lieutenant Governor and Speaker of the House of Representatives shall compose the Board of Registration and any two members of same shall have power to remove at will any registrar in this state."

The powers and duties of said Board of Registration were provided for in LSA:R.S. 18:191.[4] As can

[4] §191. Rules and regulations; board of registration; director and ex-officio secretary

A. Except as otherwise specifically provided in this Chapter, the board of registration shall from time to time prescribe by rules and regulations duly promulgated the method of the administration of this Chapter, and shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government, which said objective test shall be provided for, prepared and furnished to the registrars by the board of registration, and the character and forms of record, affidavits and other documents necessary or proper, in its opinion, to carry into effect the provisions of this Chapter, and shall file them in the office of the secretary of state.

B. The office of director of registration is created. The director shall be a qualified elector, over thirty years of age. He shall be appointed by the board of registration and shall serve at the pleasure of the board. His duties shall be to administer the rules and regulations of the board of registration and he shall perform such other duties in connection with the powers of the board of registration and the promotion of registration of the voters of the State as may be directed by it. His salary shall be sixty-six hundred dollars per annum. He shall ex-officio be secretary of the board of registration.

C. The registrars of voters shall forward to the director of registration copies of all reports made by them to the Secretary of State.

D. The legislature shall appropriate sufficient moneys for the salary of the director and the expenses of the offices of the director and the board of registration.

E. Service of the director as a registrar of voters shall be deemed creditable service in the application to him of any provision of the State Employees Retirement System, R.S. 42:541 through 42:672.

be seen the duties of this Board are particularly described by the statute and are only to prescribe by general rules and regulations the method of the *administration* of this chapter and prescribe the *character and forms of affidavits* and other documents necessary and proper in its opinion to carry into effect the provisions of this Chapter. This Board had no authority in any way to enforce any of the statutes or practices under attack. By amendments to Article 8, Section 18 of the Constitution and particularly Act 539 of 1962 adopted November 6, 1962, the duties and obligations of said Board of Registration were expanded to include the following:

> "The Board shall from time to time adopt such rules and regulations as it finds necessary for proper functioning of registration procedure in the State and shall prepare, adopt and issue a uniform, objective written test or examination for citizenship to determine that applicants for registration understand the duties and obligations of citizenship under a Republican form of government. The Board of Registration shall direct and instruct the registrars to administer this test to all applicants for registration and the results shall be maintained in the registrar's office as public records so that all persons shall have access to them and the right to appeal therefrom under the applicable laws relating thereto as provided elsewhere in this Constitution."

Implementation of this constitutional provision was provided for by Act 62 of the Legislature of 1962, the contents of which are identical to those above

quoted. No choice is given to the Board of Registration in the selection of the parish registrars. The statutes make it plain that this Board are mere conduits through which a minor part of the registration processes flow, Prior to the Constitutional Amendment of 1962 the Board's supervision of the registration process was, in fact, limited to the furnishing of supplies and assisting the registrars with individual administrative problems as they might occur. There is no controversy between appellee and the Board of Registration. When said Board by its resolution of October 1961 suggested that the interpretation test be strictly applied its purpose was to have the registrars follow the State law which at least at that time was a valid existing exercise of State authority. The Act in itself was one designed (a) to eliminate laxity and non-compliance on the part of the individual registrars and (b) to institute an indiscriminate application of the State law as it was intended to be used.

We cannot visualize how an injunction could issue against the Board of Registration or any of its members individually for they are not charged with enforcing or threatening to enforce any of the statutes under attack. In fact by the very terms of the statutory law the registrars are required to comply with and apply all laws of the State relative to the registration of voters faithfully and without reservation of conscience or mind. LSA:R.S. 18:12.

Thus the effect of the decision in *United States v. Louisiana* is to declare invalid Louisiana's consti-

tutional interpretation test, LSA-Constitution of 1921, Article VIII, Section 1(d) and LSA:R.S. 18:35 as used to determine voter qualifications and holds further that the vices cannot be cured by enjoining its unfair application. The further result is that Registrars of Voters in twenty-one specific parishes are enjoined from using a perfectly valid test as a State qualification for voting even though the majority opinion itself states "we reserve judgment therefore on the constitutionality of the new examination . . ." We know of no authority whereby this Court can issue a prohibitory order against ministerial officers performing a valid legal ministerial function in an indiscriminate manner when these persons are not even parties involved in the controversy and when the plaintiffs have no right to the relief sought against those who have been made defendants in the proceedings.

> "Three Judge courts constitute a unique burden on the Federal Judiciary. To keep this burden to a minimum, the statutes vesting the right to call such courts to sit in judgment of constitutional challenges are to be strictly construed as a procedural technicality and not as a broad remedial social policy. See *Phillips v. U. S.* 312 U.S. 246, 61 S. Ct. 480, 85 L. Ed 800; *Stainback v. Mo Hock Ke Lok Po* 336 U.S. 368, 69 S.Ct. 606, 93 L. Ed 741; and *Kesler v. Dept. of Public Safety* 369 U.S. 153, 82 S.Ct. 807, 7 L. Ed 2d 641."

> "Where, as here, parties are brought before such a tribunal who are not at all within the con-

templation of the statutes attacked and who are not indispensable, necessary or proper parties to the determination of the issues in controversy, they should be dismissed in the interest of sound judicial administration as well as to spare litigants themselves the expense and inconvenience of a trial procedure." *U. S. v. Mississippi, supra,* P. 942.

We submit that the motion of the Board of Registration to dismiss for failure to state any claim upon which relief could be granted against them should be sustained. The parish registrar alone is charged with the enforcement of the statutes under attack here. They are not parties to this action. We believe that this would obviate the portion of the judgment rendered herein as to the registrars themselves under Rule 19(b) of the Federal Rules of Civil Procedure.

In *United States v. Mississippi* after thoroughly reviewing the right of the United States to maintain the action brought under 42 U.S.C.A. § 1971 (d) the Court comes to the conclusion that:

> "The first sentence of subsection (c) of §1971 is the one which grants the Attorney General the power to institute certain proceedings under certain circumstances: 'Whenever any *person* has engaged or there are reasonable grounds to believe that any *person* is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section.' The plain meaning of that part of subsection (c) is that Congress vested the Attorney General with power to seek injunctive relief against state election

officials acting under color of law when said officials should deny a person 'otherwise qualified to vote' of the right to vote because of race or color."

"Assuming, therefore, that § 1971 does empower the United States, through the Attorney General, to assist legally a person who meets all of the other qualifications of Mississippi law, who is being discriminated against because of his color, the statute does not tend to support the action here, which is not based upon discrimination, but upon the asserted fundamental unconstitutionality of the entire structure of Mississippi law providing voter qualifications. Under these circumstances the least this Court can do is to avoid a doubtful constitutional construction and to dismiss the action because it is not brought under any power given by the statute relied on, but is a direct attack by the Indestructible Nation as such, and is against the Indestructible State as such. And, moreover, it is an attack against a state aimed at destroying its action in a field committed exclusively to it by the Constitution; to-wit, the state's power to determine and define the qualifications of the electors who may vote not only in state elections, but in federal elections as well."

## III.

The constitutional interpretation test used by Louisiana is not "per se" invalid. The Supreme Court in *Minor v. Happersett* 21 Wall 162, 88 U.S. 162, 22 L.Ed. 627, thoroughly considered the fundamental question whether the right to vote was one of the

privileges and immunities of citizenship. It is interesting to follow the simple logic of this decision. It explained that there cannot be a nation without a people and this necessarily implies an association of persons for the promotion of the general welfare. Thus it became necessary to find a name for this membership in the association. Subject—Inhabitant—Citizen. Citizen has been the word commonly used and accepted.

> "When used in this sense it is understood as conveying the idea of membership of a nation, and nothing more." Page 628 supra.

It goes on to explain that sex has never been made one of the elements of citizenship in the United States. When, then, Mrs. Minor argued that the Fourteenth Amendment extended to her the right of suffrage the Court declined this contention and turned to the direct question "whether all citizens are necessarily voters".

When the Constitution was adopted all States except Rhode Island had Constitutions of their own and in no State were all citizens permitted to vote.

> "The right of suffrage, when granted, will be protected. He who has it can only be deprived of it by due process of law, *but in order to claim protection he must first show that he has the right.*" Page 631.

> "Certainly, if the Courts can consider any question settled, this one is. For nearly 90 years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If

uniform practice, long continued, can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done here. Our province is to decide what the law is, not to declare what it should be."

The Court then concludes:

"If the law is wrong, it ought to be changed; but the power for that is not with us." Page 631.

Then, in *United States v. Reese*, 92 U.S. 214, 23 L.Ed. 563, 564 in disposing of the argument that the right to vote was conferred by the Fifteenth Amendment to the United States Constitution the Supreme Court said:

"The Fifteenth Amendment does not confer the right of suffrage on anyone."

Disability to vote, of every kind, arising from race, color or previous condition of servitude is removed by the Fifteenth Amendment from the colored male citizen; (females having been subsequently eliminated by the Nineteenth Amendment), but unless otherwise qualified by law to vote at such an election, he is no more entitled to enjoy that privilege than a white male citizen who does not possess the qualifications required by law to constitute him a legal voter at such an election.

In *McPherson v. Blacker* 146 U.S. 1, 13 S. Ct. 3, 36 L.Ed. 869, the United States Supreme Court again recognized the fact that it was within the province of the State and not the Federal Government to determine voter qualifications. It said:

> "The 15th Amendment exempted citizens of the United States from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. The right to vote in the states comes from the states, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been. *United States v. Cruikshank*, 92 U.S. 542; *United States v. Reese*, 92 U.S. 214.

And further quoting the Court went on to say:

> "The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State."
>
> * * * *
>
> "The object of the 14th Amendment in respect of citizenship was to preserve equality of rights and to prevent discrimination as between citizens, but not to radically change the whole theory of the relations of the state and Federal governments to each other, and of both governments to the people. *Re Kemmler*, 136 U.S. 436."

In a long line of unbroken jurisprudence, the United States Supreme Court has consistently recognized that the privilege of voting is conferred upon the citizens by the States and that the United States Constitution does not confer upon anyone the privilege of suffrage.

> "Before the 14th Amendment the whole subject of the elective franchise was within the exclusive control of the several states, and the right or privilege of voting was (as it still is)

a right or privilege arising under the Constitution of each state, and not under the Constitution of the United States.

"*Anderson v. Baker*, 23 Md. 623; Cooley, Const. L. 277; *Kinneen v. Wells*, 144 Mass. 497, 59 Am. Rep. 105, 11 N.E. 916; *Stone v. Smith*, 159 Mass. 413, 34 N.E. 521; *Gougar v. Timberlake*, 148 Ind. 38, 37 L. R. A. 644, 62 Am. St. Rep. 487, 46 N. E. 339; 16 Albany L. J. 272; *United States v. Anthony*, 11 Blatchf. 202, Fed. Cas. No. 14,459; *Van Valkenburg v. Brown*, 43 Cal. 43, 13 Am. Rep. 136.

"Since the adoption of the 15th Amendment the whole control over suffrage and the power to regulate its exercise is still left with and retained by several states, with the single restriction that they must not deny or abridge it on account of race, color, or previous condition of servitude.

"*United States v. Harris*, 106 U. S. 636, 644, 27 L.Ed. 292, 1 Sup. Ct. Rep. 601; *James v. Bowman*, 190 U.S. 127, 47 L.Ed, 979, 23 S. Ct. Rep. 678; *Minor v. Happersett*, 21 Wall. 178, 22 L.Ed. 631; *United States v. Reese*, 92 U.S. 214, 217, 218, 23 L.Ed. 563-565; *United States v. Cruikshank*, 92 U.S. 542, 555, 556, 23 L.Ed. 588, 592.

"The states may prescribe any qualification of age, residence, property or education which they shall see fit to prescribe, provided only that their Constitution and laws regulating the subject shall apply equally, uniformly, and impartially to white and colored, native and naturalized alike.

"*Williams v. Mississippi*, 170 U.S. 213, 42

L.Ed. 1012, 18 Sup. Ct. Rep. 583; *Gibson v. Mississippi*, 162 U.S. 582, 40 L.Ed. 1079, 16 Sup. Ct. Rep. 904; *Giles v. Harris*, 189 U.S. 475, 47 L.Ed. 909, 23 Sup. Ct. Rep. 639; *James v. Bowman*, 190 U.S. 127, 47 L.Ed. 978, 23 Sup. Ct. Rep. 678."

In *Pope v. Williams* 193 U.S. 621, 632, 24 S.Ct. 573, 575, 48 L.Ed. 817 the Court said:

> "The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. * * * It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States."

Thus, we disagree with the conclusion reached by the Court below that the right to vote is guaranteed by the United States Constitution and respectfully submit that this is erroneous.

Since the privilege of voting eminates from the States and the judicial function is properly exercised and limited only by indicating whether or not the State has transcended provisions of the Federal Constitution, the Federal Court must not and cannot direct the State in the procedures to be used in registering voters. See *Lassiter v. Northampton County Board of Elections* (1959) 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed. 1072, wherein the Court stated:

> "The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised." 79 S.Ct. 989.

This case goes on in the most appropriate language to say:

> "Article I, §2 of the Constitution in its provision for the election of members of the House of Representatives and the Seventeenth Amendment in its provision for the election of Senators provide that officials will be chosen 'by the People.' Each provision goes on to state that 'the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.' So while the right of suffrage is established and guaranteed by the Constitution (*Ex Parte Yarbrough*, 110 U.S. 651, 663-665, 4 S.Ct. 152, 158, 159, 28 L.Ed. 274; *Smith v. Allwright*, 321 U.S. 649, 661-662, 64 S.Ct. 757, 763-764, 88 L.Ed. 987) it is subject to the imposition of state standards which are not discriminatory and which do not contravene any restriction that Congress acting pursuant to its constitutional powers, has imposed. See *United States v. Classic*, 313 U.S. 299, 315, 61 S.Ct. 1031, 1037, 85 L.Ed. 1368. While § 2 of the Fourteenth Amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of 'the right to vote,' the right protected, 'refers to the right to vote as established by the laws and constitution of the state.' *McPherson v. Blacker*, 146 U.S. 1, 39, 13 S.Ct. 3, 12, 36 L.Ed. 869."

Volume 49, No. 10, 1963 of the American Bar Association Journal contains an article on "Free Elections and the Power of Congress over Voter Qualifi-

cations". The author is Dr. Wilfred J. Ritz, Professor of law, Washington and Lee University. This paper is comprehensively examined and analyzed by Judge Cameron in *United States v. Mississippi supra* and we quote and adopt this analysis as our own.

> "Article I, Section 2 of the Constitution provides that representatives shall be 'chosen every second Year by the People'. It further provides that 'the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature'. These simple words contain the only requisite provided for the selection of those persons who shall vote in federal elections.[39]
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> "As pointed out by Dr. Ritz, the very simplicity of this language of the Constitution might tend to suggest casualness of draftsmanship. He promptly points out, however, that such was not the case, suggesting that the records of the convention, as discussed in Farrand, show that it was deeply concerned with problems relating to the election of officials of the Federal Government, adopting a plan for the indirect election of the President and Vice President by use of an

[39]Volume 49, No. 10, 1963, of the American Bar Association Journal contains an excellent article on "Free Elections and the Power of Congress Over Voter Qualifications." Therein is reproduced the paper by Dr. Wilfred J. Ritz, Professor of Law, Washington and Lee University, which won first place in the 1962 Samuel Pool Weaver Constitutional Law Essay Competition conducted annually by the American Bar Foundation. We draw extensively from this paper in this portion of the opinion. Dr. Ritz cited many times from Farrand, "The Records of the Federal Convention of 1787," 4 Vols. (Rev. ed. 1937). While the article deals alone with the power of Congress, most of its contents apply equally to the Courts.

electoral college. The convention provided: 'Each state shall appoint in such manner as the legislature thereof may direct, a number of electors * * *', thereby leaving the method of selection and qualifications to the states, although Congress was authorized to establish the time of their choosing. *

"On May 29, 1787, in presenting the resolutions known as The Virginia Plan, which provided the basic framework of the Constitution, Edmund Randolph proposed a national legislature to consist of two branches, the members of the first to be elected by the people of the several states, and the members of the second to be elected by the first branch from persons nominated by the state legislatures. The national executive was to be elected by the national legislature.[40]

"On May 31, sitting as a committee of the whole House, the convention approved the resolution calling for a national legislature to consist of two branches, and then considered and debated the resolution calling for election of the first branch by the people, adopting it by a vote of six states to two, with two states divided.[41] A few days later the convention reconsidered and again upheld popular election, this time by a vote of eight states to three.[42]

"During consideration of The New Jersey Plan, still another attack on popular election was narrowly defeated, then another motion to re-

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[40] 1 Farrand 20-21, 27-28.
[41] 1 Farrand, 46, 47-50, 54-55, 56, 60.
[42] 1 Farrand 118, 124, 130, 132-138, 140-141, 142-144, 145, 147.

consider was voted down by six states to four, with one divided.[43]

"As Dr. Ritz points out, on page 950 of the A.B.A. Journal for October, 1963, various aspects of the provision were debated with care until, finally, the provision was passed without any state dissenting. The debate on the qualification of voters was thus ended. On August 9th, the convention granted to Congress the power to supersede state regulations *as to the time, place and manner of holding elections.* The debate shows that it was pointed out that the provision *had nothing to do with voter qualifications.*[44]

"On September 8th, the convention named a committee of style, which made only one change which was adopted by the convention denying Congress any power over the place of election of senators. The provisions relating to elections were adopted and became a part of the completed Constitution.[45]

"The article further points out that the Seventeenth Amendment ratified in 1913, providing for the popular election of senators, follows the pattern set forth in the original Constitution by providing that the electors in each state shall 'have the qualifications requisite for electors of the most numerous branch of the state legislatures'.[46]

"It further states that, except for the Fif-

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[43]1 Farrand, 353, 358-360, 364-365, 367, 368.
[44]2 Farrand 651, 653.
[45]2 Farrand 229, 239-242, 244.
[46]Vol. 49, No. 10, A.B.A.J. page 951.

teenth and Nineteenth Amendments, which place restrictions on the qualifications the states may require of electors for state officials and so, indirectly, become limitations on the qualifications as defined in the original Constitution, 'Otherwise, there are no constitutional restrictions on the qualifications the states may require of electors for state officials, and so also of electors of federal officials.'[47] The article refers also to the 'Poll Tax Amendment,' emphasizing that it departed from the pattern of previous amendments in that a state is permitted to establish a different qualification for electors to the most numerous branch of its own state legislature than the state can establish for the election of federal officials. But the elimination of that qualification could be done by constitutional amendment alone.

"It is clear, therefore, that in the ratification of the Seventeenth Amendment and of the Poll Tax Amendment, the Congress of the nation and the people have affirmed in this century that the power to establish or change the qualifications of electors for federal officials can be accomplished by constitutional amendment alone.

"Dr. Ritz's estimate of the constitutional scheme for establishing the qualifications of electors for federal officials is thus stated at the conclusion of his article:[48]

> '* * * For this reason, the Constitution establishes the qualifications of electors for federal officials by a readily ascertainable and completely objective standard. This ob-

[47] Id.

[48] 49 A.B.A.J., No. 10, page 954.

> jective standard is beyond the power of the Federal Government to change, except by going to the states and the people to seek a change through the process of constitutional amendment. History demonstrates that when a change has been needed, the necessary constitutional amendments have been forthcoming. * * * '

"The decisions of the Supreme Court teach a similar lesson. *Slaughter-House Cases*, 16 Wall. 36, 83 U.S. 36, 21 L.Ed. 394; *Minor v. Happersett*, 21 Wall. 162, 88 U.S. 162, 22 L.Ed. 627; *United States v. Reese, supra; United States v. Cruikshank*, 92 U.S. 542, 23 L.Ed. 588; *Ex parte Yarbrough*, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; *Swafford v. Templeton*, 185 U.S. 487, 22 S.Ct. 783, 46 L.Ed. 1005; *Guinn v. United States*, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340; *Newberry v. United States*, 256 U.S. 232, 41 S.Ct. 469, 65 L.Ed. 913; *Breedlove v. Suttles*, 302 U.S. 277, 58 S.Ct. 205, 82 L.Ed. 252; *Lassiter v. Northampton Board of Elections, infra.*"

In addition to these considerations we wish to quote directly from said paper by Dr. Ritz as follows:

> "The principal judicial support for a view that Congress has some power over voter qualifications is found in a dictum by Chief Justice Stone (then an associate justice) in *United States v. Classic*, wherein he said:
>
> > ' . . . While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states . . . this statement is true only in the sense that the states are authorized by

> the Constitution to legislate on the subject as provided by Section 2 of Article I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under Section 4 and its more general power under Article I, Section 8, clause 18 . . .'

The implication that the powers of Congress under Section 4 of Article I may be used to restrict the powers of the states under Section 2 of the same article is entirely without support in the history of the federal convention of 1787 or in the prior decisions of the Court. If the reference had been to the power of the states to legislate under *Section 1*, instead of Section 2, the statement would have been in complete accord with the language and history of the Constitution and the judicial precedents. Consequently, there is a strong probability that the reference to Section 2 was a slip rather than a considered citation."

## IV.

The Court should not have enjoined the use of the Citizenship Test.

By resolution of August 3, 1962 in compliance with Act 62 of 1962, the State Board of Registration adopted a voter qualification test. It was and is a uniform, objective, standardized test or examination administered to all prospective electors alike. See *Davis v. Schnell, supra.* An applicant is required to indiscriminately draw one of ten cards. Each card has six multiple choice questions, four of which the applicant must answer correctly. Although the

lower Court states "This test is considerably more difficult than the 'tests' administered to white applicants in the past, in that it requires a comprehension of the theory of the American system of government and a knowledge of specific constitutional provisions," *U. S. v. Louisiana, supra,* page 392, the fact is that this test is much easier than the old system complained of.

An example of a question which appears on each card is:

"The name of our First President was—

a. John Adams
b. George Washington
c. Alexander Hamilton

Another example is:

"The Supreme Court is made up of—

a. 9 Justices
b. 6 Justices
c. 5 Justices

Applicant for registration is required to circle the a, b or c to indicate the proper answer and only four of the six need to be answered correctly.

The whole tenor of this test or examination is followed as in the course of study prepared and disseminated by the Department of Justice through its Immigration and Naturalization Service to those aliens interested in becoming citizens of this Nation. Should not a citizen of this Nation have at least the same basic knowledge of our Constitution and govern-

mental procedures as is required of aliens who apply for citizenship.

We have previously shown that a State statutory requirement, applicable to all races, that a voter be able to read and write, is a fair way to determine literacy, and such requirement was not subject to the Court's supervision. *Guinn v. U. S., supra; Lassiter v. Northampton, supra.* We have also shown that this authority extends to other areas.[5] And yet the lower Court philosophizes as follows:

> "Considering Louisiana's unhappy position as the State with the highest rate of illiteracy and the lowest percentage of citizens with a high school education, the citizenship test can be regarded as a step forward only by those in favor of a severely limited representative government of guardians by a small, elite assembly . . ." Page 392.

Judge Wisdom then says:

> "We reserve judgment therefore on the constitutionality of the new examination."

Thus, the "citizenship test" is presumed to be valid and constitutional until such time as it is found to be unconstitutional. Where then, is its authority to enjoin its use. There has been no allegation or proof that this "citizenship test" has been improperly or discriminately applied, nor does the Court so find. It simply considers the "effect of this new action on

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[5] *Breedlove v. Suttles*, 302 U.S. 277 (1937). See also *Pirtle v. Brown*, 118 F. 2d 218 (6th Cir. 1941) Cert. denied, 314 U.S. 621 (1941); *Butler v. Thompson*, 341 U.S. 937 (1951), aff'g 97 F. Supp. 17 (E.D. Va. 1951).

those who have been discriminated against in the past."

We urge that the State has the right to make such changes. The Legislature may change and modify pre-existing rules of evidence relating to the qualifications of voters. Cooley, Const. L. 7th Ed. 524, 1903; 11 Am. & Eng. Euc Law, 2nd ed title Evidence p. 550; 6 Am & Eng. Euc. Law Md ed title Constitutional Law p. 950.

Citizenship and suffrage are by no means inseparable; the latter is not one of the fundamental, inalienable rights with which men are endowed by their Creator, but is altogether conventional. Suffrage is not a right of property or absolute personal right.

*Anderson v. Baker*, 23 Md 531; Cooley Consti L. 276, 277; Black, Const. Law 466; Story, Const. § 581.

The Court further states that

> "Courts retain an undiminished authority to grant suitable equitable relief that will rectify past inequities now, without delay, and will prevent future inequities."

It cites *State of Ala. v. U. S.*, 5 Cir. 1962, 304 Fed. Md 583, aff'd 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed. Md 112.

The majority opinion in Alabama does not stand for the proposition for which it is cited. As a matter of fact, the majority opinion opens with a clear, concise statement of the limited nature of the question to be decided, viz: whether the District Court may affirmatively order the registration of specified and named

Negro voters found by the Court to have been discriminatorily denied registration because of their race or color. Then after reviewing the facts and concluding that the District Court was eminently correct in that the facts clearly showed a flagrant pattern of discriminatory practice which was then and had long been in existence in the State of Alabama. In evaluating this fact situation, the Court said:

> ". . . but what was undoubtedly the most disturbing thing of all to the trial Judge, was not the recitation of past events, which showed that as time went on, things were getting progressively worse, not better: *the disturbing thing was rather, that there was not even a slight ray of hope that conditions would improve . . .*" (Emphasis supplied)

It was in this setting—under the cumulative impact of gross abuses in the past and little expectation of improvement for the future—that the Judge was led to conclude "That this Court is of the firm opinion that this case warrants not only a prohibitory decree but a decree mandatory in nature." D.C., 192 F. Supp. 677 at 682. In the light of the Civil Rights Acts of 1957, as amended in 1960, the Court went on, "complete relief requires that the decree in this case be framed so as (1) to correct the effect of the Board's Negroes on the voting rolls immediately . . .," D.C. 192 F. Supp. 677, 682. Implementing this, the District Court's opinion called for the mandatory decree now under attack:

> "In this connection, this Court specifically finds and concludes that the Negro citizens of

> Macon County whose names are listed on Appendix 'E' to this opinion were qualified by law to vote at the time of their respective applications for registration and the failure to register these Negro citizens was and is in violation of the Constitution and laws of the United States." D.C., 192 F. Supp. 677, 682-683.

In the light of the circumstances of this Record, briefly summarized by us, we are of the clear view that this order was within the power of the Court to grant, and that the exercise of that power was eminently proper.

This is not the same situation as here. In our case the State has changed a portion of its qualification standards which it has the right to do. The decree of the Court below can have no other effect than the taking over by the Court of the functions of the State when it comes to determining the qualifications required for voter privileges. It is not necessary that the Federal Court interfere with established valid State and local procedures.

The class for whom the United States acts in this cause has an adequate remedy at law. Louisiana law provides for and encourages the removal from the registration rolls of *all* persons illegally or fraudulently registered. LSA:R.S. 18:245.[6]

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[6]Illegal registration or loss of right to vote; notice to registrant; cancellation of name on failure to prove right.

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their

The Supreme Court stated in *McCabe v. Atchinson, T & S.F.R. Co.* (1914) 235 U.S. 151, 162, 35 S.Ct. 69, 71, 59 L.Ed. 169:

> "It is an elementary principle that, in order to justify the granting of this extraordinary relief, the complainant's need of it, and the absence of an adequate remedy at law, must clearly appear."

The issuance of the injunction against the twenty-one parishes which had used the oral interpretation test actually has the effect of disregarding the valid authority of a State to act in this field. It directs that a nondiscriminatory re-registration of all voters would be the only fair and effective means of clearing away the effect of the interpretation test. With this we must disagree. The Atkins case specifically rejects the proposition that a State may not alter its voting requirements without re-registering all voters in the State.

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right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P. O. Form 3547—Requested, at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R. S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail; within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall cancel their names from the registration records as provided by R.S. 18:135.

The present position of the Court below is to recognize as unlawful administration by State officials of a State statute fair on its face and then further to penalize the State by prohibiting the use of a new statute, not only fair on its face, but fairly and indiscriminately applied.

> "The citizenship test now required by the new Louisiana statute is a much more reasonable test than the former constitutional interpretation test which the Negro citizens failed." See *United States v. Fox* 211 F. Supp. 25.

The perpetuity of the inequities referred to by the Court are, therefore, not to be cured by the sweep of the broom in ordering the violation and disregard of valid State law.

In Atkins it was stated:

> "The freezing effect which appellant complains of results from several factors. On the one hand there are those whites whose registration did not comply with even the minimal requirements of State law. We believe that there is a less radical remedy for this injustice than the one suggested by the appellant. Rather than making such unlawful practices a permanent fixture in Dallas County, the district court could, on petition by appellant, purge from the registration list those persons proved by the appellant to have been registered by a procedure which does not meet the minimal requirements of State law. These persons could then reapply for registration subject to the same requirements as everyone else. Such relief would be within the broad equity powers recognized in *Alabama v. United States*,

5 Cir., 304 F. 2d 583, aff'd per curiam, 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed. 2d 112 (1962)."

In effect this decree recognizes and establishes the "freezing theory" so aptly described and defined in Atkins, but with respect to this theory as it applies here Atkins said:

> "As long as there is the ability to reapply, it is unlikely that within this zone there would be any freezing effect so great as to amount to an injustice." Page 745.

This case further states:

> "Where the application of this principle would mean that the Board must in the future continue to violate state law as did its predecessors, the principle should be used, assuming such use could ever be justified, *only if there were no other alternatives by which justice could be reached.*" (Ibid)

There is no limitation in the Louisiana law to prohibit a person from reapplying for registration should they not be accepted.

The effect of the decree is to establish universal suffrage through judicial action when in fact there is no constitutional or legislative authority for this proposition.

The appellant or the aggrieved individuals have the right to ask a court of competent jurisdiction to inquire into the qualifications of those persons whom it contends are illegally and fraudulently registered to vote. It has no right to ask this Court to disregard

State law, presumed to be constitutional until such time as it is found to be unconstitutional and thus order the defendant Registrar to violate his oath and his responsibility and to give special privileges to a special group or class when he has already been prohibited from doing so by the District Court.

To borrow from the dissenting opinion in *U. S. v. Louisiana*, we sum up in agreement with the following:

> "This sad epoch in our history (post Civil War) was fomented in no small part, by well intentioned men in too much of a hurry."

We fondly hope that in the name of right and reason we shall not be guilty of creating additional problems to foment discord, discontent and disregard of the existing law.

## CONCLUSION

It is respectfully submitted that the judgment of the Court below should be reversed and this suit dismissed.

In the alternative, and only in the event this Court upholds the jurisdiction as to the defendants, then the judgment of the lower Court should be reversed and Article 8, Section 1(c) of the Constitution of Louisiana and its implementing statute be held to be constitutional and valid.

In the alternative, the injunction issued against the twenty-one named parishes of the State of Louisi-

and against the use of the "Citizenship Test" should be recalled and set aside.

Respectfully submitted,

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## CERTIFICATE

I, Jack P. F. Gremillion, a member of the Bar of the United States Supreme Court, hereby certify that this ____ day of _____, 1964, a copy of the above and foregoing brief was served on Honorable Burke Marshall, Assistant Attorney General, Department of Justice, Washington, D. C., by depositing same in the United States Mail, postage prepaid.

_____

HARRY J. KRON, JR.

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Louisiana Legislative Council, *An Anaylsis of the Election Laws of Louisiana* (Baton Rouge, 1960), Vol. I, p. 4 ..... 20
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State of Louisiana, *Report of the Secretary to Governor Long from January 1, 1949 to December 31, 1950* ..... 91, 93
Swift, *Gulliver's Travels* (Universal Library ed.), p. 132 ..... 62
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| U.S. Census Office, *Twelfth Census: 1900*, Vol. I, Table XCV, p. cciv, Table XCVI, p. ccvi, Table 67, p. 909, Table 68, p. 910, Table 69, p. 912, Table 92, p. 983 | 14 |
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# In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 67

STATE OF LOUISIANA, ET AL., APPELLANTS

*v.*

UNITED STATES OF AMERICA

*ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA*

## BRIEF FOR THE UNITED STATES

### OPINION BELOW

The opinion of the district court (R. 94–145) is reported at 225 F. Supp. 353. Subsequent findings of fact and conclusions of law (R. 84–89) and the decree (R. 81–84) are not reported.

### JURISDICTION

The judgment of the three-judge district court (R. 81–84) was entered on January 28, 1964. A timely notice of appeal (R. 92–93) was filed in the court below on March 5, 1964.[1] The jurisdictional state-

[1] A premature notice of appeal filed December 27, 1963 (R. 79)—before entry of the decree—was dismissed (R. 90, 91) and an identical new notice substituted. While, pursuant to stipu-

ment was filed here on May 5, 1964, and this Court noted probable jurisdiction on June 22, 1964. 377 U.S. 987. The jurisdiction of the Court rests on 28 U.S.C. 1253. *Sterling* v. *Constantin*, 287 U.S. 378.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### A. PROVISIONS OF GENERAL RELEVANCE

Article VI, clause 2, of the Constitution of the United States, Section 1 of the Fifteenth Amendment and the relevant portions of Section 1971 of Title 42 of the United States Code are reproduced in Appendix A, *infra*, pp. 81–86.

### B. PROVISIONS RELEVANT TO THE "UNDERSTANDING AND INTERPRETATION" TEST (QUESTION 2)

1. The pertinent portion of Section 1(d) of Article VIII of the Louisiana Constitution, as amended in 1960, is as follows:

> He [the voter] * * * shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the Registrar * * *[2]

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lation (*e.g.*, R. 32, 36, 38), only written evidence was submitted (depositions, affidavits, transcribed testimony from other proceedings and other written exhibits), the case was tried on the merits (R. 84) and the decree (including a declaratory judgment and a permanent injunction (R. 81)) is properly characterized a "final order" (R. 92). Accordingly, the appeal filed within 60 days of the judgment was timely. 28 U.S.C. 2101(b).

[2] Presumably by inadvertence, the Jurisdictional Statement (p. 3) and the Brief (pp. 2–3) filed by the State of Louisiana cites and quotes the provision of former Section 1(c), rather than the appropriate language of Section 1(d)—the only con-

2. The pertinent portion of Section 35 of Title 18 of the Louisiana Revised Statutes is as follows:

> Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof.[3]

3. The pertinent portion of Section 36 of Title 18 of the Louisiana Revised Statutes is as follows:

> If the registrant cannot read or write, he may register if he * * * understands and can give a reasonable interpretation of any section of either constitution [of the United States or Louisiana] when read to him by the registrar or his deputy.[4]

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stitutional interpretation test in effect when this suit was filed (December 28, 1961, see R. 1, 6) or since.

As originally adopted in 1921, Article VIII contained two separate constitutional interpretation tests. Section 1(c) provided that persons able to read and write "shall also be able to read any clause in this Constitution or the Constitution of the United States, and give a reasonable interpretation thereof." Section 1(d) provided that illiterates might register if "able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar * * *." In 1960, the interpretation test in Section 1(c) was deleted entirely, and the opening phrase of Section 1(d), which had restricted its application to illiterates, was dropped. See Act 613 of 1960, adopted November 8, 1960. The result is that the test originally designed for illiterates is now the test applicable to every applicant. For clarification, we have appended a comparative text showing the changes effected in 1960. See Appendix B, *infra*, pp. 87–90.

[3] La. R.S. 18:35 repeats almost verbatim the interpretation test as it originally appeared in Article VIII, Section 1(c) of the Constitution. Although that language has been deleted from the Constitution, it remains in the statute.

[4] La. R.S. 18:36 substantially repeats the test for illiterates which appeared in Article VIII, Section 1(d) of the Constitution before 1960, and which is now applicable to all registrants. While Section 36 has not been changed, presumably

### C. PROVISIONS RELEVANT TO THE "CITIZENSHIP" TEST (QUESTION 3)

1. The pertinent portion of Section 1(c) of Article VIII of the Louisiana Constitution is as follows:

> He [the voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.

2. The pertinent portion of Section 1(d) of Article VIII of the Louisiana Constitution is as follows:

> He [the voter] * * * must understand the duties and obligations of citizenship under a republican form of government.[5]

3. The pertinent portion of Section 18 of Article VIII of the Louisiana Constitution, as amended in 1962, is as follows:

> The Board [of Registration] shall from time to time adopt such rules and regulations as it finds necessary for proper functioning of registration procedure in the State and shall prepare, adopt and issue a uniform, objective written test or examination for citizenship to determine that applicants for registration understand the duties and obligations of citizenship under a republican form of government. The Board of

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it should be read as though the introductory clause had been deleted, to conform with the Constitution (Article VIII, § 1(c)) which now bars illiterates from the franchise (though illiterates properly registered on or before November 8, 1960, may continue to vote. See La. Const., Art. VIII, § 1(f)).

[5] This and the previous provision are both part of the original 1921 text; the quoted portion of subsection (c) was then applicable to literate applicants, while the substantially identical portion of subsection (d) applied only to illiterates. Both provisions survived the 1960 amendment (see note 2, *supra*) and both now apply to all prospective voters. See Appendix B, *infra*, pp. 87–90.

> Registration shall direct and instruct the registrars to administer this test to all applicants for registration and the results shall be maintained in the registrar's office as public records so that all persons shall have access to them and the right to appeal therefrom under the applicable laws relating thereto as provided elsewhere in this Constitution.

4. The pertinent portion of Section 31(2) of Title 18 of the Louisiana Revised Statutes is as follows:

> He [the applicant for registration as a voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.

5. The pertinent portion of Section 36 of Title 18 of the Louisiana Revised Statutes is as follows:

> He [the applicant for registration as a voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.*

6. The pertinent portion of Section 191A of Title 18 of the Louisiana Revised Statutes, as amended in 1962, is as follows:

> [T]he board of registration * * * shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government, which said objective test shall be provided for, prepared and furnished to the registrars by the board of registration, and the character and forms of

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*This redundant provision was originally, and is still in terms, applicable to illiterates alone; but, in light of the change in the constitutional provision to which it is tied, it must presumably be read as generally applicable.

record, affidavits and other documents necessary or proper, in its opinion, to carry into effect the provisions of this Chapter, and shall file them in the office of the secretary of state.'

QUESTIONS PRESENTED

1. Whether the United States may initiate injunctive and declaratory proceedings challenging, as contravening the Fifteenth Amendment and 42 U.S.C. 1971(a), State constitutional and statutory provisions establishing voting qualifications and may institute such an action against the State and the members and director of the State Board of Registration when there are local voting registrars available as defendants.[8]

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[7] This provision, enacted in June, 1962 (see Act 62 of 1962), became effective and was implemented by the State Board of Registration in August (see R. 224–251), before the adoption, in November, of the constitutional amendment quoted as Item 3 above. Presumably, the new "citizenship" test was thought authorized by the existing constitutional provisions quoted as Items 1 and 2 above. See R. 228.

[8] Since none of the issues embodied in this first question is listed as a "question presented" or is "fairly comprised" within the only question mentioned (question 2, *infra*) in the notice of appeal (R. 92–93; see, also, R. 79; J.S. 4), they would normally be foreclosed here. See Rule 10(2) of the Revised Rules of this Court. Indeed, it is doubtful whether all of these matters were raised in the district court (see Motion to Dismiss, R. 21–22). And, even now, it does not clearly appear that appellants challenge the authority of the Attorney General to institute the present suit on behalf of the United States against other defendants (but see App. Br. 11–12). Nevertheless, because some of the issues mentioned are expressly considered in the opinion below (see R. 98–99), because those not expressly argued here are prominently involved in the companion *Mississippi* case (No. 73, this Term), on which the present appellants so much rely, and because the questions are in some sense

2. Whether the provisions of the Louisiana Constitution (Art. VIII, § 1(d)) and implementing legislation (La. R.S. 18:35, 36) requiring applicants for registration as voters to be able to "understand and give a reasonable interpretation" of any section of the State or federal Constitution are unconsitutional because they violate the Fifteenth Amendment and 42 U.S.C. 1971.

3. Whether, in the circumstances, the district court properly enjoined the use of a new "citizenship" test in the 21 parishes where the constitutional interpretation test was shown to have been used, until such time as there is a re-registration of all voters in those parishes.[9]

## STATEMENT

### A. THE PLEADINGS AND PROCEDURE

These proceedings were begun on December 28, 1961, in the United States District Court for the Eastern District of Louisiana. On that day, the Attorney General, acting pursuant to 42 U.S.C. 1971(c), filed a complaint in the name of the United States against

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jurisdictional—we advert to them. In order to avoid unnecessary repetition, however, our discussion here is very summary, with appropriate references to the government's brief in *United States* v. *State of Mississippi*, No. 73, where the procedural issues are treated more fully.

[9] Again, appellants have failed to specify this question in their notice of appeal (R. 92–93; see, also, R. 79–80; J.S. 4). Yet, it is prominently argued in their brief here (pp. 24–33). We discuss it fully because it may be viewed as "a subsidiary question fairly comprised" within the question set forth in the notice—the constitutional validity of the "understanding and interpretation" test. See Rule 10(2) of the Rules of this Court.

the State of Louisiana, the members of the Louisiana Board of Registration, and the Director and *ex officio* secretary of the Board (R. 1).[10] The gravamen of the complaint was that the Louisiana constitutional and statutory provisions which condition registration for voting upon the ability of the applicant to understand and give a reasonable interpretation of any section of the Constitution of the United States or the Constitution of Louisiana (La. Const., Article VIII, Section 1(d), as amended, and La. R.S. 18:35; 36) conflict with 42 U.S.C. 1971(a) and contravene the Fourteenth and Fifteenth Amendments to the United States Constitution (R. 7). A judgment was sought declaring the challenged provisions unconstitutional and enjoining the defendants from enforcing them and from engaging in any other course of action which would deprive citizens of the right to register and vote on account of race or color, or which would delay or discourage their exercise of that right (R. 8).

On January 9, 1962, upon the application of the United States, a statutory court of three judges was convened in accordance with 28 U.S.C. 2281.[11] On February 27, the defendants moved to dismiss the

[10] After the decree was entered, two members of the State Board of Registration (the Governor and the Speaker of the Louisiana House of Representatives) were replaced. The new Governor (John J. McKeithen) and the new speaker (Vail M. Deloney) should be substituted for Jimmie H. Davis and J. Thomas Jewell. See Rule 25(d)(1), F.R. Civ. P.

[11] The order convening the three-judge court (which was not designated for printing) is found among an unpaginated group of papers between pages 14 and 15 of the original record. The court consisted of Circuit Judge Wisdom and District Judges Christenberry and West.

complaint upon the grounds that there was "no justiciable controversy," that the United States had failed to join indispensable parties and that venue was improper (R. 21–22). On March 15, the United States filed an amended complaint which added the allegation that Louisiana registrars of voters "have used, are using, and will continue to use the interpretation test to deprive otherwise qualified Negro citizens of the right to register to vote without distinction of race or color," and that "[t]he existence of the interpretation test as a voter qualification in Louisiana, the threats of its enforcement and its enforcement have deterred, are deterring and will continue to deter otherwise qualified Negroes in Louisiana from applying for registration to vote" (R. 28). The district court denied the motion to dismiss on June 7 (R. 31). Thereafter, on July 3, the defendants filed a joint answer, generally denying each of the allegations in the complaint, but conceding that the constitutional and statutory provisions prescribing the oral interpretation test impose no definite and objective standards upon registrars of voters in the administration of the test.[12] By agreement, all evidence was submitted in written form. Numerous depositions, affidavits, transcripts of testimony from other proceedings, official voting records and other exhibits were introduced by the United States. Appellants submitted no evidence and, though given time to do so (see R. 73–75), filed no trial brief.

[12] The answer, which was not designated for printing, appears among an unpaginated group of papers between pages 33 and 34 of the original record.

At one point during the proceedings (see R. 78), appellants suggested that the case was moot because the challenged "understanding and interpretation" test had been discontinued and a new multiple-choice "citizenship" test substituted, pursuant to a recent amendment to the State Constitution (La. Const., Art. VIII, § 18, as amended by Act 539 of 1962, adopted November 6, 1962, (*supra,* p. 4), a new statute (La. R.S. 18:191A, as amended by Act 62 of 1962, *supra,* p. 5) and a Resolution of the State Board of Registration (R. 227–231, 231–234), accompanied by test forms (R. 235–251) and Instructions to Registrars (R. 225–226). In that way, the new "citizenship" test was introduced as an issue in the case (see R. 69, 71, 74, 78). In order to rebut the allegation that the constitutional interpretation test had been wholly abandoned in determining voter qualifications, the government sought and obtained permission to re-open the case to submit further evidence (R. 75–79). Subsequently, a deposition was introduced showing that the old test had been continued in use in Webster Parish (R. 390–391), and such a finding was entered in a later proceeding. See *United States* v. *Clement,* 231 F. Supp. 913 (W.D. La.).

A majority of the court filed its opinion on November 27, 1963 (R. 97). District Judge West filed his dissenting opinion on December 31 (R. 140). Formal findings of fact, conclusions of law, and a decree granting the relief requested were entered on January 28, 1964 (R. 81–89).

## B. THE EVIDENCE

### 1. THE ANTECEDENTS OF THE INTERPRETATION TEST

From the *Code Noir* of 1724 until 1864, the organic law of Louisiana extended the franchise only to free white males,[13] notwithstanding the fact that there were thousands of free Negro men in the State.[14] For three decades thereafter, however, the policy changed. While the constitution adopted in 1864 itself conferred the right to vote on white men alone, it expressly empowered the legislature "to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the government, or by intellectual fitness, may be deemed entitled thereto."[15] In 1868 (three years before the Fifteenth Amendment was ratified), Louisiana adopted a new constitution which entirely eliminated race as a qualification for voting.[16] And the Constitution of 1879 explicitly prohibited the legislature from abridging the franchise "on account of race, color or previous condition."[17] Thus, in 1888, Negroes, accounting for about half the population of Louisiana, also constituted approximately fifty per cent of the electorate. In that year there

[13] For the period after Louisiana achieved Statehood in 1812, see: La. Const. 1812, Art. II, § 8; La. Const. 1845, Art. 10; La. Const. 1852, Art. 10.

[14] In 1810, New Orleans had 8,001 white persons, 5,727 free persons of color and 10,824 slaves. *Aggregate Amount of Persons Within the United States in 1810* (Wash. D.C. 1811) p. 82.

[15] La. Const. 1864, Art. 14, 15.

[16] La. Const. 1868, Art. 98.

[17] La. Const. 1879, Art. 188.

were 127,923 Negroes and 126,884 white persons on the registration rolls.[18] As of January 1, 1897, the number of Negro voters was 130,344, some 44% of the electorate.[19]

In 1898, Louisiana held a constitutional convention. According to the official journal, the President of the Convention (Mr. Kruttschnitt) assumed his chair with the remark that the convention "has been called together by the people of the State to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter of a century degraded our politics."[20] A contemporaneous account in the Harvard Law Review relates that Mr. Kruttschnitt later told the convention delegates:

> We all know, we, the white people of the State of Louisiana, that the problem which we desire to solve is to undo the greatest crime of the nineteenth century, the placing of the ballot in the hands of the negro race by the Fifteenth Amendment to the Constitution of the United States. * * *[21]

Also noted is the argument of Mr. Kruttschnitt that it was necessary to prevent ignorant Negroes from voting, yet to grant the franchise to ignorant white men who had fought for the South. 13 Harv. L. Rev. at 288.

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[18] Pl. Ex. 1 (part of the original record, not designated for printing). For a partial summary of population and voter registration statistics, see the tabular recapitulation in Appendix C., *infra*, p. 91.

[19] *Ibid.*

[20] Official Journal of the Proceedings of the Constitutional Convention of 1898, p. 9.

[21] Eaton, *The Suffrage Clause in the New Constitution of Louisiana*, 13 Harv. L. Rev. 279, 288.

Many of the delegates to the 1898 convention sought to accomplish this objective by a so-called "understanding clause"—adopted by Mississippi in 1890 [22] and by South Carolina in 1895.[23] This provision would have permitted an applicant for registration as a voter who was unable to read to be registered if, in the opinion of the registrar or his deputy, he could understand the Constitution of the State. 13 Harv. L. Rev. at 291. The delegates who favored such a clause included Lieutenant Governor Snyder, who, at a conference of 35 or 40 delegates, stated that "[a]n 'understanding clause' like that in the Constitution of Mississippi is elastic and can be used effectively to prevent Negroes from registering." *Id.* at 281. Mr. Strongfellow thought that with an understanding clause "they could make one grand sweep, include all the white people, and then put the bars up as they wanted to, and thus settle the suffrage question for all time to come." *Id.* at 291. Other delegates opposed the proposal. A delegate from Ouachita Parish was quoted by the New Orleans Times-Democrat as stating: "To adopt the understanding clause would be 'to send word' to the registrars to do what you will not do yourself" (R. 114). A noted historian observes that, after considerable debate, the delegates were "persuaded that the understanding clause was based on fraud," and rejected it. Woodward, *Origins of the New South,* p. 332. Instead, the convention

[22] Miss. Const., 1890, Art. 244; see Brief for the United States in *United States* v. *State of Mississippi*, No. 73, this Term, p. 13.

[23] S.C. Const. 1895, Art. II, Sec. 4(c).

adopted alternative requirements of literacy or property to bar the poor and illiterate Negro, and a "grandfather clause" to admit to the franchise the whites who were unable to satisfy the other qualifications.[24]

The intent of these provisions is fully disclosed. Writing in 1904, a Louisiana historian explained the purpose of the suffrage provisions adopted in 1898:

> The purpose of this section, known as the 'Grandfather Clause,' was to allow many honorable and intelligent but illiterate white men to retain the right of suffrage, and the purpose of the educational or property qualification was to disfranchise the ignorant Negroes who had been a menace to the civilization of the State since the adoption of the Fifteenth Amendment to the Constitution of the United States.[25]

At the close of the convention, President Kruttschnitt complained that, because of the Fifteenth Amendment, the delegates had "not been free."[26] He said:

> * * * we have not drafted the exact Constitution that we should have like to have drafted; otherwise, we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a

[24] La. Const. 1898, Art. 197. At the time, according to the United States census, approximately 61.3 percent of adult Louisiana Negroes were illiterate, while illiterates represented some 18 percent of the white adult population. See U.S. Census Office, *Twelfth Census: 1900*, Vol. I, Table XCV, p. cciv, Table XCVI, p. ccvi, Table 67, p. 909, Table 68, p. 910, Table 69, p. 912, Table 92, p. 983.

[25] 4 Fortier, *History of Louisiana* 235.

[26] R. 204; Official Journal of the Proceedings of the Constitutional Convention of 1898, p. 380.

> trace of African blood in his veins. * * * What care I whether the test we have * * * be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting, and isn't that what we came here for?[27]

In his message to the legislature, Governor Foster characterized the suffrage problem of the convention as, "[i]n the face of the fifteenth amendment, the elimination of the negro as a controlling factor in our politics, without at the same time excluding from the electorate a large number of our worthy white citizens * * *."[28]

He declared:

> The States of Mississippi and South Carolina had previously attempted to solve this problem, not by any certain and fixed provisions of law, but by leaving the admission of the applicant to the exercise of the electoral franchise largely to the arbitrary discretion of the officers administering the law. The Convention of our State solved the problem in a much more upright and manly fashion. The method adopted by it involves the exercise of no such arbitrary discretion on the part of the registration and election officers. * * *[29]

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[27] Other equally explicit statements of convention delegates are related in Eaton, *The Suffrage Clause in the New Constitution of Louisiana*, 13 Harv. L. Rev. 279, 281, 289. See also, R. 113; Monnet, *The Latest Phase of Negro Disfranchisement*, 26 Harv. L. Rev. 42, 56–57; Kernan, *The Constitutional Convention of 1898 and its Work*, Proceedings of the Louisiana Bar Association for 1899, pp. 54, 59–60; Marr, *A Historical Review of the Constitutions of Louisiana*, 1912–13.

[28] Louisiana Senate Journal, 1898, p. 33.

[29] *Ibid.*

Promptly following the adoption of the 1898 constitution, the Louisiana legislature directed a complete new registration of all voters.[30] Originally, registration under the "grandfather clause" was limited to those who qualified before September 1, 1898.[31] But the benefit of that provision was later extended to new "grandsons."[32] As a result of the re-registration, the number of Negroes on the registration rolls fell dramatically. Whereas in 1897 there had been 130,344 Negro voters in the State, there were only 5,320 in 1900. By 1910, only 730, or less than 0.5 percent of the adult male Negroes, were registered.[33] The new constitution adopted in 1913 carried forward without material change the 1898 suffrage provisions, including the "grandfather clause."[34]

2. THE 1921 CONSTITUTIONAL CONVENTION

In 1915, this Court held unconstitutional an Oklahoma "grandfather clause." *Guinn* v. *United States*, 238 U.S. 347. One of the purposes of the Louisiana constitutional convention called in 1921 was to revise the voter qualification laws in light of this development.

According to contemporaneous accounts in New Orleans newspapers, the Convention of 1921 considered "several substitutes" for the grandfather clause. One was the Connecticut clause requiring voters to possess "good moral character." A second was a

[30] La. Act 199 of 1898, §§ 2, 34.

[31] La. Const. 1898, Art. 197, § 5.

[32] See La. Act 24 of 1912, re-opening the "grandfather clause" between November, 1912, and September, 1913.

[33] Pl. Ex. 1. See Appendix C, *infra*, p. 91.

[34] La. Const. 1913, Art. 197.

proposal of ex-Governor Pleasant, called the "Christopher Columbus" plan, under which only those whose ancestors had inhabited the continent of Europe prior to October 12, 1492, could register to vote without meeting onerous educational requirements. A third was the proposal rejected in 1898—Mississippi's "understanding clause" (R. 209, 219).[35] The Times-Picayune declared that the purpose of the "Christopher Columbus" plan was "to shut out the negro" (R. 209), and viewed the "understanding clause" as touching the same "phase" of the suffrage question as the Christopher Columbus plan (R. 213). When the "understanding clause" was first proposed to the convention on March 21, 1921, the Times-Picayune characterized it as "[a]n ordinance designed to plug the hole shot through the suffrage provision of the present constitution when the Supreme Court of the United States declares the famous 'grandfather' clause invalid."[36] The New Orleans States, another

[35] The Convention of 1921, unlike the Convention of 1898, did not keep a Journal. A proposal was made that a shorthand record be made of the convention proceedings. But, according to the March 3, 1921, Times-Picayune, during a Rules Committee debate on this proposal Ex-Governor Pleasant protested "with a broad smile" that "[t]here might be one subject coming up for discussion which we would not care to have preserved in shorthand" (R. 211). The Committee, the article continued, understood that Mr. Pleasant referred to his "Columbus suffrage cause," whereupon "everybody smiled", and the shorthand proposal was defeated (*ibid.*). The deliberations of the Committee on Suffrage and Elections were conducted largely in executive session with "much secrecy", and its members observed a strict injunction against publicly discussing committee business (R. 221).

[36] R. 215. The same newspaper reported that Judge Pugh, in introducing it, had labeled it "judicially bombproof" (R. 215).

newspaper, reported that a large delegation of Negro citizens of Louisiana appeared before the Committee on Suffrage and Elections in opposition to the understanding clause, and "pleaded for the ballot" and against the "total disfranchisement of 700,000 * * * human beings" (*viz.*, the Negro population of Louisiana in 1920) (R. 217). Nevertheless, the understanding clause was reported out of committee. In summarizing the committee's action, a third journal, the States Times, declared that "[t]he grandfather clause is eliminated and there is substituted an understanding and good character clause * * *." (R. 221).[37]

The new constitutional interpretation test was not a test of literacy. On the contrary, under the Constitution of 1921—until it was amended in 1960[38]—the new test was expressly applicable to illiterates, who then accounted for 25 percent of the adult population.[39] Indeed, it was probably designed especially

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[37] As originally adopted, the new Constitution required "good character" of literate applicants (La. Const., Art VIII, § 1(c)) and "good character and reputation" of illiterates (*id.*, § 1(d)). The 1960 amendment to the State Constitution greatly expanded the first of these provisions (now applicable to every applicant) by providing, *inter alia*, that none shall be deemed of good character who has lived in "common law marriage" or has mothered or fathered an illegitimate child. See the text of the new § 1(c) printed in Appendix B, *infra*, pp. 87–90.

[38] See note 2, *supra*. The full textual changes (most of them irrelevant to the present case) are reflected in Appendix B. *infra*, pp. 87–90.

[39] Among whites the illiteracy rate was about 12%; among Negroes, 44%. See U.S. Bureau of Census, *Abstract of the Fourteenth Census of the United States: 1920*, Table 132, p. 433.

for them. As originally enacted, Section 1(d) of Article VIII provided that an applicant for voter registration who satisfied other requirements common to all voters,[40] but was "not able to read or write," "shall be entitled to register if he * * * shall be able to understand and give a reasonable interpretation of any section of either [the] Constitution [of the United States or the Constitution of Louisiana] when read to him by the registrar." While literate applicants were also nominally required to "be able to read any clause in this Constitution or the Constitution of the United States and give a reasonable interpretation thereof," this final test, in their case, seems plainly secondary to the demonstration of literacy through completion of the written application form "without assistance or suggestion from any person or any memorandum whatever."[41] La. Const. 1921, Art. VIII,

[40] Beyond the requirements of citizenship, age, residence and absence of disqualifying conviction or interdiction (see Art. VIII, §§ 1(a), (6), both literate and illiterate applicants were required to be "of good moral character" and able to "understand the duties and obligations of citizenship under a republican form of government." It is difficult to attribute concrete meaning to the additional provisions applicable only to illiterates that they "be attached to the principles of the Constitution of the United States and of the State of Louisiana" and "be well disposed to the good order and happiness of the State of Louisiana and of the United States." La. Const. 1921, Art. VIII, § 1 (c) and (d), reproduced in Appendix B, *infra*, pp. 87–90.

[41] This form-completion requirement, now even stricter and applicable to all applicants, is challenged by the United States in a separate proceeding. *United States* v. *Board of Registration of Louisiana*, C.A. 2866 (E.D. La.).

§ 1(c).[42] It is instructive that, in 1960 when the Constitution was amended to end the registration of illiterates [43] (now some 6.3 percent of the population above 14),[44] the clause last quoted was deleted and the first (formerly applicable only to illiterates) was retained and made applicable to everyone.[45]

### 3. THE EFFECT OF THE WHITE PRIMARY

From 1921 to 1948, the interpretation test apparently lay dormant. It was unnecessary as a screen against negro voters because the Democratic State Central Committee, following a policy officially endorsed by the State (see R. 189–194),[46] restricted all candidates and voters in Democratic Party primary

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[42] See Appendix B, *infra*, pp. 87–90. It is apparent that if the constitutional interpretation test applied with equal vigor to both classes, illiterate applicants would be favored, since they were excused from the literacy test involved in completing the application form unaided. Indeed, this seeming anomaly was noted in a study of the voting laws completed for the legislature in 1960, and doubtless affected the legislative proposal for revision of the Constitution which was adopted by the electorate that November. See Louisiana Legislative Council, *An Analysis of the Election Laws of Louisiana* (Baton Rouge, 1960), vol. I, p. 4.

[43] See note 4, *supra*. As noted there, illiterates legally registered before November 8, 1960, retained the right to re-register under the old law. See La. Const., Art. VIII, § 1(f), as amended by Act 613 of 1960; Op. La. Atty. Gen., September 28, 1961.

[44] U.S. Bureau of the Census, *Estimates of Illiteracy by States* (Feb. 12, 1963), p. 2. No figures are available by race. Louisiana had the highest rate of illiteracy in the Nation in 1960, according to the cited study.

[45] See note 2, *supra*, and Appendix B, *infra*, pp. 87–90.

[46] See, also, Pl. Ex. 9A through 9E.

elections for State office to white persons (R. 194) and thereby barred Negroes from the only balloting of significance in the Louisiana electoral process. In the face of the white primary, Negro registration never rose above one percent of the total number of registered voters between 1921 and 1946,[47] although Negroes constituted more than one-third of the State's adult population during those years.[48]

4. THE DEMISE OF THE WHITE PRIMARY, THE DECISION IN BROWN V. BOARD OF EDUCATION, AND THE RESURRECTION OF THE INTERPRETATION TEST

After this Court's 1944 decision in *Smith* v. *Allwright*, 321 U.S. 649, and the demise of the white primary, the number of registered Negro voters surged upwards.[49] On March 18, 1944, there were 1,029 Negroes (less than one-fifth of one percent of the total number of registered voters) on the registration rolls.[50] By March 17, 1956, registered Negroes numbered 161,410, or fifteen percent of the total.[51]

In 1954, this Court decided *Brown* v. *Board of Education*, 347 U.S. 483. Immediately thereafter, the Louisiana legislature created a Joint Legislative Committee to study ways and means of maintaining racially segregated schools in Louisiana,[52] which became

[47] Pl. Ex. 1. See Appendix C, *infra*, p. 91.

[48] See Appendix C, *infra*, p. 91.

[49] Other factors also were at play. For example, Negro veterans returning from World War II were determined to vote (See R. 808).

[50] Pl. Ex. 1. See, also, Appendix C, *infra*, p. 91.

[51] *Ibid.*

[52] Louisiana Legislature, House Concurrent Resolution No. 27 (1954).

known as the "Segregation Committee" (R. 800). Its chairman was William M. Rainach, State Senator from Claiborne Parish (R. 630), where there are more Negroes than white persons[53] (albeit 5,216 white persons but only 34 Negroes were registered to vote in the parish as of December 31, 1962[54]). Counsel for the committee was William M. Shaw, also from Claiborne Parish (R. 643–644). At about the same time, Rainach and Shaw helped to organize and incorporate the Association of Citizens Councils of Louisiana (R. 630, 644) to "protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects."[55] In 1956, the Association published a pamphlet, prepared by Rainach and Shaw, entitled "Voter Qualification Laws in Louisiana—The Key to Victory in the Segregation Struggle" (R. 195). The Foreword of the pamphlet stated (R. 196):

> The Communists and the NAACP plan to register and vote every colored person of age in the South. * * *
>
> They are not concerned with whether or not the colored bloc is registered in accordance with law. * * *

The pamphlet advocated that, in order to "maintain segregation and to preserve the liberties of our people", the voter qualification laws, including the interpretation test, should be strictly enforced (R. 196, 198), and the Louisiana registration rolls purged of the "great numbers of unqualified voters who have been illegally registered", and who "invariably vote in

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[53] Pl. Ex. 2, Table 27, p. 77.

[54] Pl. Ex. 14. See Appendix D, *infra*, p. 93.

[55] Pl. Ex. 5A, Article II(1) (Act of Incorporation).

blocs and constitute a serious menace to the community" (R. 198). The "Key to Victory"—subtitled "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils" (R. 195)—was widely distributed (R. 634, 645). It was the principal topic of discussion at State-sponsored meetings on voter registration (R. 784, 793) attended by registrars and other public officials, and it was distributed to all persons in attendance.[56]

The first phase of the program was to eliminate Negro voters from the registration rolls. In pursuit of this objective, Rainach and Shaw, in their dual role as legislative and Citizens Council officials, traveled about the State helping to organize local citizens council groups and urging that they challenge the registration status of all "unqualified" voters (R. 632, 646).[57] The consequence was that purges were conducted in many parishes throughout the State. One such purge, in Washington Parish, was reviewed by this Court in *United States* v. *Thomas,* 362 U.S. 58, affirming *United States* v. *McElveen,* 180 F. Supp.

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[56] Pl. Ex. 105 through 111. These exhibits are minutes of congressional district conferences on "Uniform Enforcement of Louisiana Voter Qualification Laws." The minutes of two such conferences are included in the printed record (R. 778–799).

[57] See, also, Pl. Ex. 22G, pp. 9–10, Pl. Ex. 5A–5K. Under Louisiana law (La. R.S. 18:245), any two registered voters of the parish may file affidavits of challenge with a registrar of voters stating their belief that a voter is illegally registered or has lost his right to vote. The registrar is required to notify the registrant thus challenged, who must then appear in person before the registrar within ten days and prove his right to remain on the registration rolls by affidavit of three registered voters. If the challenged registrant is unsuccessful, his name is canceled from the rolls. See, also, La. R.S. 18:132–136.

10 (E.D. La.). Purges also were undertaken elsewhere: *e.g.*, Bienville;[58] De Soto;[59] La Salle (R. 40–41); Rapides (R. 41–47); Lincoln (R. 54–57); Ouachita (R. 57–64); Jackson (R. 65–68);[60] Richland (R. 377–378); Red River (R. 397, 402); Union (R. 459, 461); Winn (R. 470, 475–479) and East Feliciana (R. 539–545). The purges accomplished their objective.[61] Challenges were issued to a vast number of Negroes, but only a token number of whites.[62] White registrants whose application forms contained deficiencies similar to those for which Negroes were purged were not removed from the rolls.[63] The registrar of Winn Parish testified in her deposition that Citizens Council members, while reviewing registration applications and challenging Negroes for alleged errors, corrected similar mistakes on their own applications (R. 476). When contested in federal court, the challenges were found to be racially discrimina-

[58] Pl. Ex. 20A, pp. 146–147. See *United States* v. *Association of Citizens Councils of Louisiana*, 196 F. Supp. 908, 910 (W.D. La.), invalidating the Bienville Parish purge and directing that the purged voters be restored to the rolls.

[59] Pl. Ex. 162A–D.

[60] See *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La.), invalidating the Jackson Parish purge and directing that the purged voters be restored to the rolls.

[61] In parishes on periodic registration (Pl. Ex. 14; La. R.S. 18:231), the objective was achieved without resort to the challenge statute, because the rolls were cleared automatically. In other parishes a purge was unnecessary because, as in East Carroll, Madison, Tensas and West Feliciana, there were no registered Negroes, or, as in Claiborne, only a few (Pl. Ex. 152).

[62] See, *e.g.*, R. 40, 43, 53, 57, 64, 417–418, 475–476; Pl. Ex. 20A, p. 188; Pl. Ex. 20J, p. 221.

[63] See, *e.g.*, R. 476; Pl. Ex. 20A, pp. 203–205.

tory. *United States* v. *Thomas*, 362 U.S. 58; *United States* v. *Association of Citizens Councils of Louisiana*, 196 F. Supp. 908 (W.D. La.); *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La).

In the wake of the purges, and with Negro registration substantially depressed, the Segregation Committee and the State Board of Registration jointly sponsored, in late 1958 and early 1959, conferences in each congressional district (R. 776–778). The registrars of voters were required to attend (R. 481, 800). Other public officials as well as officers and members of Citizens Councils also attended (R. 778–781, 785–787).[64] At these meetings, which were chaired by Rainach (R. 776; 778),[65] the "Key to Victory" was officially distributed to the registrars (R. 784–793). Rainach, still chairman of the Segregation Committee and President of the Association of Citizens Councils (R. 630), stressed that registrars had "become critically important officials" (R. 789) and "the focal point of the solution to our problems"—problems which "our forefathers in Louisiana" in 1897 knew would be solved by a "program" of "voter qualification law enforcement" (R. 790). Rainach outlined the role that such a "program" would play in maintaining Louisiana's "separate school system and other domestic institutions and powers" (R. 781, 789). He declared that "[t]he fight for school integration in the South has shifted from the courts to the political arena, from legal moves

[64] See, also, Pl. Ex. 105, 107, 109–111.

[65] See, also, R. 784, 799.

to a fight for the votes of Negro masses who must be fully registered before their political power can be brought to bear" (R. 790). He reminded the registrars that during the Reconstruction Period "integrated schools were established in Louisiana under a Reconstruction Constitution adopted by the Negro vote", and warned that, with Negroes constituting 32% of the population of Louisiana, the balance of Louisiana political power "could very easily shift in the direction it shifted during the Reconstruction Era, if Negroes are permitted to register without regard to qualifications provided by law" (R. 790).

Mr. Shaw—still counsel for the Segregation Committee and an official of the Association of Citizens Councils (R. 644; 649)—explained the registrar's function. He told the registrars that "[t]he key to the solution of our whole problem lies in the interpretation of the Constitution * * *" (R. 795).[66] He urged the registrars to require applicants to interpret the Constitution and provided them with 24 test cards to be used for that purpose (R. 783, 795).[67] He stressed that the interpretation test was a test of "native intelligence," not education, and that an "educated fool" would not be able to qualify. "Experience teaches", he suggested, "that most of our white people have this native intelligence while most Negroes do not", and that, therefore, if the test were "fairly administered", most Negroes would be ex-

[66] See, also, Pl. Ex. 107, p. 5; Pl. Ex. 109, p. 6; Pl. Ex. 110, p. 9; Pl. Ex. 111, p. 5.

[67] See, also, Pl. Ex. 105, p. 3; Pl. Ex. 107, p. 5; Pl. Ex. 109, p. 6; Pl. Ex. 110, p. 9; Pl. Ex. 111, p. 5.

cluded (R. 650–651). Yet, Mrs. Mary C. Flournoy, formerly Registrar of Winn Parish, testified that Rainach and Shaw came to her office (R. 474) and that (R. 477, 483):

> Rainach told me if * * * I can't fail them [Negro applicants] any other way, I could pull those Constitutional reading cards on them. * * *
>
> * * * Mr. Rainach wanted me to pull those hard cards on colored people.

5. THE INTERPRETATION TEST IN PRACTICE

(a) *Partial nullification of the test*

The parties to this suit stipulated that the interpretation test was not in fact used by the incumbent registrars in Caddo, Jefferson, East Baton Rouge, or Orleans parishes[68]—the four largest parishes in the State—where almost forty percent of the State's registered voters reside.[69] In the twenty-one parishes in which the test was shown to have been administered, its earliest known use occurred in 1954,[70] and it was not generally in use in those parishes until late 1956.[71]

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[68] Pl. Ex. 16 (R. 32); Transcript of Hearing, March 4, 1963, p. 4 (The transcript begins at p. 84 of the original record).

[69] Pl. Ex. 1.

[70] The former registrar of Plaquemines Parish (who assumed office in 1945) testified that he first began to use the test in late 1954 (Pl. Ex. 20B) (Deposition of Frank Giordano, pp. 245, 255–257).

[71] The parishes in which the test was shown to have been used, and the dates of commencement, are Bienville (1955) (R. 441); Claiborne (date unknown) (Pl. Ex. 4); De Soto (1956 or thereafter) (R. 569); East Carroll (1961) (R. 531); East Feliciana (date unknown) (R. 541); Franklin (1958 or 1959) (R. 491–492); Jackson (1960) (R. 585); La Salle (1955 or 1956) (R. 348); Lincoln (test commenced because of "pres-

Though some effort was made to generalize employment of the test after that time, the Board of Registration issued no binding instructions with respect to administering the interpretation clause, contenting itself with "suggestions" and ambiguous "recommendations" (see R. 606, 607, 626, 803, 804, 813, 815). In October, 1961, the Board for the first time adopted a clear-cut resolution directing registrars throughout the State to use the test and prepared written cards for that purpose (R. 146–169, 608–609); but the indication is that the resolution never left the Board's office (R. 612–617). In any event, it is clear that the registrars, if advised, did not obey. Moreover, less than a year later (in mid-1962, while this suit was pending), the Board promulgated comprehensive instructions implementing the new "citizenship test" and omitted all reference to the interpretation test (R. 224–234). See *infra*, pp. 43–45.

(b) *The testing of some applicants but not others*

In some of the parishes where the test has been used the registrars have not tested every applicant. The relevant provisions of the Louisiana Constitution and statutes (*supra*, pp. 2–3) require only that the applicant shall "be able to" understand and give

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sure"; commencement coincided with first attempts of Negroes to register in large numbers) (R. 506, 511–512); Ouachita (1956) (R. 63); Rapides (date unknown; test in use at least since June 13, 1956) (R. 355); Red River (1956) (R. 400); Richland (1957) (R. 377); St. Helena (1959) (R. 421, 423); Union (1956) (R. 461); Webster (1957) (R. 49); West Feliciana (1959) (R. 577); Winn (1960) (R. 471); Plaquemines (1954) (Pl. Ex. 20B, *supra*, note 70; *United States* v. *Fox*, 211 F. Supp. 25 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5)).

a reasonable interpretation of a constitutional section. The registrar of La Salle Parish testified that he did not give each applicant the test because he understood these requirements "to mean that they must be able to and not that they must do it each time" (R. 350). The former registrar of Lincoln Parish gave the test to some applicants, but not to others, because she "could tell when they were qualified and when they weren't * * *" (R. 510). The Webster Parish registrar was more likely to dispense with the test if she knew the applicant (R. 175)."

(c) *Divergent standards and procedures in the use of the test*

Those registrars who have administered the test have employed widely divergent standards and procedures in determining which constitutional sections to use. Some chose only provisions from the State constitution (R. 428, 433, 487); others employed sections exclusively from the federal Constitution (R. 588). In Red River Parish, the registrar ordinarily used only two sections, and occasionally another "just to break the monotony" (R. 405). The Webster Parish registrar opened a book containing the Louisiana Constitution "at random" and required the applicant to interpret the section which appeared on the page revealed (R. 394). Some registrars employed a set of test cards (each containing three sections of the Constitution) which were distributed to them by the Segregation Committee (R. 9–20, 201, 409, 472–473, 493–494, 532–533, 541, 556, 578). The registrar of

[12] See, also, R. 62.

Ouachita Parish used a set of test cards containing sections chosen by the Citizens Council (R. 63). The Plaquemines Parish registrar used cards provided by Leander Perez, the Parish District Attorney."

To one registrar the selection of a test question was "just about a ene-mene-minee-mo situation * * *" (R. 464). But others tailored the test to fit the applicant. The registrar of Red River parish would choose a card which he "thought the particular applicant would be capable of answering" (R. 411) and accordingly gave an attorney a "pretty hard card" (R. 410; compare R. 467). The former registrar of Lincoln Parish similarly "picked out what * * * [she] thought would be good for * * * [the] particular individual" (R. 507).

While several registrars required an applicant to give a reasonable interpretation of one of three sections on a test card (R. 542, 533, 579), others required two out of three (R. 357, 497) and still others demanded a reasonable interpretation of each of three sections (R. 411, 531). One registrar would give an applicant at least two more provisions if he failed to interpret the first one, and, sometimes, if he failed on all three, would ask him "just to pick out any part of the Constitution and see if he could interpret that" (R. 463). Some registrars would define a word that the applicant did not understand (R. 356; 372), or give the applicant a dictionary (R. 544). Others would refuse to give the meaning of troublesome words (R. 382, 427, 447, 535, 591).

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[13] Pl. Ex. 20L, p. 528.

For some registrars it was enough that the applicant read the constitutional section silently; his interpretation sufficed to show whether he could read it (R. 349, 517). Other registrars insisted that the applicant read the constitutional section aloud (R. 472, 485, 506, 542, 579). Many registrars allowed the applicant to refer to the constitutional section while giving his interpretation (R. 357, 372, 544, 582). But one required the applicant to "hand the book back" after reading the section, and refused to permit the applicant to examine the section further (R. 337–338). The registrar of Rapides Parish read the applicant a portion of the Constitution (R. 587), and did not let him look at the section at all (R. 591).

Most registrars required applicants to give their interpretations orally (R. 361, 374, 381, 401, 424, 448, 465, 473, 485, 531, 542, 570, 587). A few asked for written interpretations (R. 497; Pl. Ex. 20L, p. 537). Registrars were not required to maintain a record of the test questions put to the applicants or the interpretation given, and most registrars kept no records or virtually none (R. 352, 360–361, 374, 381, 394, 406, 425, 465, 473, 518, 532, 571, 582, 588).

### 6. RACIAL DISCRIMINATION IN THE ADMINISTRATION OF THE INTERPRETATION TEST

The present record focuses on seven of the twenty-one parishes where it appears that the interpretation test was used.[74] In each of these parishes the evidence

[74] In these parishes—Plaquemines, Red River, Jackson, Bienville, Webster, East Feliciana and Ouachita—the United States had filed or was preparing separate suits under 42 U.S.C. 1971

is that the registrar discriminated on racial grounds in the administration of the test. The discrimination assumed various forms:

(a) *Administration of the test to Negroes but not to whites*

In several parishes the test was given to Negroes but not to whites. Thus, in *United States* v. *Clement*, 231 F. Supp. 913 (W.D. La.)—a separate suit brought by the United States against the Webster Parish registrar—the court found that the registrar, between January 1957 and September 1962, gave the test "only to Negroes", and that she reintroduced the test "in 1963, at a time when large numbers of Negroes began to apply and were successfully completing the citizenship test",[15] and, again, the intrepretation test "was administered only to Negroes." The court noted that "[t]hirty-one Negro witnesses testified that they took and failed the oral test at least once, while twenty-seven white witnesses testified that they registered without taking the oral test." 231 F. Supp. at 915. Highly educated Negroes were required to take the test and gave interpretations which failed to satisfy the registrar. The court in *Clement* found that (231 F. Supp. at 915):

> Among the Negroes who were denied registration for mailing the oral test were three public school principals, four public school teachers, a dentist, and an insurance agent. At the same

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to restrain racial discrimination in the registration of voters and evidence consequently was readily available for use by the government in the present case.

[15] The new test, initiated in August, 1962, is described *infra*, pp. 43–45. See, also, the relevant constitutional and statutory provisions, *supra*, pp. 4–5.

> time, white persons with sixth-grade, fifth-grade, and even second-grade educations successfully registered without being required to take the test.

The record reflects similar discrimination by the Jackson Parish registrar, who also was a defendant in a separate suit brought under 42 U.S.C. 1971. *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La.). In *Wilder* the court found that (222 F. Supp. 749, 752):

> * * * [T]he defendant registrar has required Negro applicants but not white applicants to interpret sections of the federal Constitution. * * * She has rejected otherwise qualified Negroes for failure to interpret to her satisfaction a section of the Constitution. * * *

Among the Negroes rejected in Jackson Parish for failing the interpretation test were at least two school teachers and a college student.[16] The Negro college student failed the test after reading a portion of the Constitution on the registrar's instruction, not knowing that after reading it she would have to interpret it without a second look (R. 327). White persons with less than seventh grade educations registered during the same period without taking the test at all, so far as they could remember (R. 329–335).

Again, in East Feliciana Parish, between 1958 and 1961 eight Negro school teachers failed the intepretation test while eight white illiterates were registered

[16] R. 323–328, 336–338. The registrar kept no record of the administration of the interpretation test, except for occasional notes on the rejected application forms of Negroes. (R. 588; Pl. Ex. 4–JX.)

(see R. 128)."[17] Some white persons were not required to read or explain anything to the registrar (R. 767–768, 774). Other white persons received only a token test. White registrant Eva Dees described the administration of the test as follows (R. 772):

> He hold out a bunch of cards, and I drawed one, and then he taken it back. I didn't even look at the card. He taken it back and he read on there, and he asked me did I think everybody should go to the same church, * * * and I said I thought everybody should go to the church of their choice.

Yet, a Negro minister was rejected after interpreting the clause on search and seizure as "To search you would have to get an authorized authority to read a warrant" (R. 760).

(b) *Assistance given to whites but not to Negroes*

Discrimination in the administration of the test also took the form of assistance given to whites but not to Negroes. In *United States* v. *Fox,* 211 F. Supp. 25 (E.D. La.) affirmed, 334 F. 2d 449 (C.A. 5)—a separate suit brought by the United States against the registrar of Plaquemines Parish—the trial court found that "[t]he evidence abundantly shows that some of the white registrants now on the rolls received help in

[17] See Pl. Ex. 4–EF. This exhibit consists of microfilm copies of the voter registration records for East Feliciana Parish. Xerox copies of the application forms of the eight Negro teachers were submitted to the trial court in a special display which was not offered in evidence. The statistical reports of the Louisiana Secretary of State reflect that between October 1958 and October 1961, the number of white illiterates registered in East Feliciana Parish increased by eight. Pl. Ex. 14.

the filling out of their * * * constitutional test cards." 211 F. Supp. at 33. Commenting on a display furnished to the court by the United States showing similar interpretations for the period October 4–7, 1960, the court stated: it "shows conclusively that all of the 55 (white) applicants in the display were either assisted in taking the test or provided with the written answers for them to copy * * *" (*ibid.*).

The testimony, depositions and exhibits in the *Fox* case, which were introduced into evidence in the present case,[78] substantiate the court's finding. The uncontradicted testimony of a white witness at the hearing on the motion for preliminary injunction in *Fox* was that, when she was unable to read and interpret the constitutional provision on her test card, the deputy registrar wrote out the answers on a separate sheet of paper so that she could copy them (Pl. Ex. 20K, pp. 338–339). The testimony of many white registrants at the hearing showed that they did not have the slightest comprehension of the constitutional provisions which the registrar found they had interpreted satisfactorily (Pl. Ex. 20J, pp. 299–300, 321). Whites gave strikingly identical interpretations of constitutional provisions on given days which differed markedly from the interpretations—virtually identical to each other—which white applicants gave on

[78] Pl. Ex. 4–PL; Pl. Ex. 20B; Pl. Ex 20J–L.

other days." Negroes, on the other hand, uniformly were refused assistance on the interpretation test.[80]

*(c) Discriminatory Selection of Constitutional Sections for Interpretation*

In *United States* v. *Fox, supra,* the trial court, besides finding that the Plaquemines Parish registrar had assisted whites on the interpretation test, also found that, although the constitutional test forms in use in the parish had been distributed evenly since 1961, before that year "white applicants were apparently given the easier forms to answer * * *." 211 F. Supp. at 33.[81]

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[79] One dramatic example is the interpretation of the Tenth Amendment in Plaquemines Parish. Leander Perez, the District Attorney, had suggested the following interpretation:

> State rights, or the right of the people to self government in the States, and the natural rights of the people were specifically reserved in the 10th Amendment to the United States Constitution.

On January 20, 1956, 30 of 31 white applicants answered the question (and were accepted) with an identical two-word interpretation: "States rights." Yet, on September 18, 1958, all 12 white applicants gave the following wordy interpretation (with only the slightest variation): "The right of the people to self government in the state and the natural right of the peoples are reserved in the 10th amendment." Finally, on October 9, 1959, 12 white applicants discovered a middle ground (again, with only trivial differences): "States right or people's right to self-government." See Pl. Ex 4–PL.

[80] Depositions of Carolyn Sapp, February 27, 1962, p. 101; Rosa Thurmond, February 27, 1962, p. 120; Catherine Prout, February 27, 1962, pp. 133, 144; Thelma Taylor, February 27, 1962, pp. 172–173; John Taylor, February 27, 1962, p. 13; Martha Williams, March 1, 1962, p. 76; Sarah Brown, March 1, 1962, p. 99 (Pl. Ex. 20B).

[81] In 1959, 96 percent of the 1,586 white applicants received one of the two easiest of the 25 test cards then in use. Pl.

Similarly, in Red River Parish, for the short period of time during 1957 in which the registrar used printed forms to administer the interpretation test, 87.4 percent of the white applicants received an identical and relatively simple test given to only 5 percent of the Negro applicants.[82] Conversely, 36.4 percent of the Negro applicants received a comparatively more difficult form which only 2.5 percent of the white applicants received.[83]

(d) *Discriminatory Grading of Interpretations*

Another form of discrimination against Negroes in the administration of the test was in the grading of the interpretations. In Bienville Parish, whites who never had gone to school, including one illiterate, "passed" the test (R. 297, 301). On the other hand, at least five Negro school teachers,[84] including two with masters' degrees, from Columbia and Stanford Universities respectively (R. 285, 289), failed the test.

One Negro school teacher who failed testified as follows (R. 290–291):

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Ex. 4–PL. Each of these cards (nos. 2 & 8) contained a clause on freedom of speech and on freedom of religion. No Negro received eitther of these two cards. *Ibid.*

[82] This form contained two provisions about freedom of religion and one about freedom of speech. Pl. Ex. 4–RR. Sample forms used in Red River Parish are contained in Pl. Ex. 11–G.

[83] *Ibid.* In addition to a provision about freedom of speech, this form contained provisions concerning ex post facto laws and self-incrimination.

[84] Pl. Ex. 20A, pp. 277–284, 322–333.

Q. To the best of your recollection, this is the provision she gave to you; is that correct?

A. Yes, sir.

Q. Would you mind reading that provision?

A. "Section 16. Rolling stock operated in state—rolling stock operated in this state, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed for state purposes only, at a rate not to exceed 40 mills on the dollar assessed value."

* * * * *

[The witness explains she cannot repeat verbatim the interpretation she gave the registrar]

The COURT: In the first place, do you know what the term "rolling stock" means?

The WITNESS: I think it has to do with locomotives, freights, and passenger cars and the like.

By Mr. OWEN:

Q. What does this provision say about rolling stock?

A. My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed 40 mills on the dollar.

Q. Do you have any recollection as to what Mrs. Culpepper said to you after you attempted to interpret this provision?

A. She just said, "I am sorry. Your interpretation is incorrect." And I said, "Thank you." And went out.

The discriminatory practices of the Bienville Parish registrar were the subject of a separate suit brought by the government under 42 U.S.C. 1971, *United States* v. *Association of Citizens Councils of Louisiana*,

196 F. Supp. 908 (W.D. La.). The court there found (196 F. Supp. at 911):

> At the trial the Government presented a veritable parade of Bienville Parish Negroes, holding bachelor's and master's degrees, who, since 1956, on one technicality or another, have been denied the right to register or re-register. An equally impressive group of white persons testified that they were permitted to register, although * * * their level of education was far below those of many of the Negro applicants. It is perfectly clear from all the evidence that the Registrar * * * has applied far more stringent qualification standards upon Negro applicants than she has upon whites, solely because of race. * * *

In Red River Parish, a Negro school teacher, who testified that she had been denied registration three times for failing to interpret sections of the Constitution to the satisfaction of the registrar (R. 721–725), on one occasion was rejected for failure to interpret satisfactorily the Fourth Amendment to the Constitution of the United States (R. 724). She told the registrar that the Fourth Amendment means "that nobody could just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what they were to search and seize" (R. 724). The registrar told her that this was wrong (*ibid.*). In Ouachita Parish, a Negro beautician with a high school education (R. 702) testified that her registration had been challenged in 1956, and that upon her re-registration she had been required to read and explain a constitutional provi-

sion (R. 703–704). The registrar "reached under the desk" and obtained a test card, looked at it, put it back, and then gave the applicant another one (R. 704). Asked to explain the contents of the card, the applicant told the registrar what she thought it meant, but the registrar "said what I was saying was right, but wasn't the way she wanted me to say it" (R. 704). Yet, in the few parishes where interpretations were reduced to writing, registrars accepted from white persons interpretations such as "Freedom of Religion" for a section entitled "Freedom of Religion" (R. 427).

(e) *Administration of the test to Negroes discriminatorily purged from the rolls while leaving on the rolls whites who never had taken the test*

In the parishes where Negroes were discriminatorily purged from the rolls (*supra*, pp. 23–24), the interpretation test was given to the purged Negroes who sought to re-register, while whites, who had not taken the test because it had not been in use before the purge, remained on the registration rolls without being subjected to the test.[35] An example is Red River Parish, where the test was first employed in 1956. In *United States* v. *Crawford*, 229 F. Supp. 898, (W.D. La.), the court found that (229 F. Supp. at 900):

> In October 1956, the local Citizens Council challenged the registration status of 1,146 of the

[35] In some parishes—*e.g.*, East Feliciana (R. 818)—one of the grounds for the purge was that the challenged registrants had not been required to interpret a constitutional section, although at the time they had registered the regristrar had required no one to take the test.

> 1,362 Negro voters and 27 of the 3,585 white voters. * * * The Registrar thereafter sent out citations to the challenged voters and removed their names from the voter rolls * * *. When * * * [the purged voters] attempted to re-register, they were required to interpret three constitutional clauses which were printed on test cards. At least 35 Negroes were rejected when they attempted to re-register after the purge and before January 1, 1957.

A majority of the 35 Negroes were rejected on the ground that they could not pass the interpretation test (Pl. Ex. 11G). The court held that "[t]he practice of using the interpretation test * * * as a device to discriminate against Negroes is in violation of 42 U.S.C. § 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States." 229 F. Supp. at 902.

Similarly, in Ouachita Parish, on the heels of a Citizens Council purge of more than 3,000 Negroes in 1956 (R. 57–60), the registrar began using the interpretation test for the first time (R. 61–63, 644). Even though the registrar had not administered the test to anyone prior to the purge, one of the grounds for the removal of the Negro registrants was inability to give a reasonable interpretation of the Constitution (R. 59). Those of the challenged Negroes who were unknown to the registrar, and whom she "suspected" of being unable to read and interpret a portion of the Constitution, were required to undergo the interpretation test (R. 62). Negro registration abruptly

declined.[86] The unchallenged whites, who had never been subjected to the test, remained on the rolls.[87]

In some parishes permanent registration was adopted following the purge, so that the whites who had been registered without taking the interpretation test were frozen on the rolls. In Bienville Parish the registrar began using the interpretation test in November 1955 (R. 441). This was followed in September, 1956, by a Citizens Council purge of 95% of the registered Negroes and 1% of the registered white persons.[88] Immediately thereafter, the parish adopted permanent registration. *United States* v. *Association of Citizens Councils of Louisiana,* 196 F. Supp. 908, 911. Thus, the interpretation test became a requirement for Negroes but not for the whites who were permanently enfranchised. *Ibid.*

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[86] In March 1956, there were 5,782 Negroes on Ouachita's registration rolls (Pl. Ex. 151). Only 952 Negroes were on the rolls as of August 1962 (Pl. Ex. 14). White registration increased during this period from 24,184 to 24,995 (Pl. Ex. 14). See Appendix D, *infra*, p. 93.

[87] In the 6 years following the purge, 37.6% of the Negro applicants were rejected for alleged failure to pass the test. Less than one-half of one percent of the white applicants were rejected for this reason. Pl. Ex. 27. The following table gives the comparative picture:

*March 1, 1956–August 31, 1962*

| | Passed Test | Failed Test | Percent |
|---|---|---|---|
| Negro applications | 819 | 493 | 37.57 |
| White applications | 11,555 | 53 | .46 |

[88] Pl. Ex. 4–BV.

### 7. THE DECLINE IN NEGRO REGISTRATION FOLLOWING EMPLOYMENT OF THE INTERPRETATION TEST

As the table in Appendix D (*infra*, p. 93) reflects, between 1956 and 1960, in the parishes where the interpretation test was used, Negro registration dropped sharply while white registration remained constant. In those 21 parishes the total number of registered Negroes fell from 25,361 to 10,256. This decline was applauded in a report issued in 1961 by the Louisiana Subcommittee on Registration, an adjunct of the State Sovereignty Commission (R. 805). Reviewing the comparative voter registration totals of Negroes and whites since 1888, the report called attention to the fact that from 1956 until 1960, "the registration figures of colored people actually declined 2,377" even though 81,214 Negroes became of voting age, whereas "114,629 white people * * * became of voting age and * * * white registration increased 96,620" (R. 809). In reviewing the "progress" that had been made, the report stated that "registration in the State of Louisiana seems to have stabilized itself. From 1956, in which you had 84.7 percent white and 15.3 colored, we, today, have 86.2 percent white and 13.8 percent colored" (R. 811).

### 8. THE ADOPTION OF THE NEW "CITIZENSHIP" TEST

In August 1962, eight months after the filing of this action, a new "citizenship" test was introduced as a prerequisite to voting registration. By a measure

passed in June and effective August 1[20] (La. R.S. 18: 191A,. as amended by La. Act 62 of 1962, *supra,* p. 5)—later expressly ratified by constitutional amendment (La. Const., Art. VIII, § 18, as amended by La. Act 539 of 1962, adopted November 6, 1962, *supra,* p. 4)[21]—the legislature instructed the State Board of Registration to "prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government." The Board promptly complied. It prepared, and directed all registrars to use, a set of ten cards, each containing six multiple-choice questions (R. 235–244). The applicant selects one of the ten question cards, and must answer correctly four of the six questions on the card in order to register (R. 228). The applicant marks his answers on answer cards, called the "Form 11" (R. 245–246).

The new test was made compulsory and the accompanying instructions from the Board of Registration made no reference to the constitutional interpretation test (R. 225–231). Indeed, as we have noted, it has been suggested that the citizenship test was intended to wholly supplant the old test. Yet, the provisions of the Louisiana Constitution and statutes relating to the interpretation test were not repealed, and there is

[20] Although approved by the Governor on June 21, the measure was not certified as "emergency legislation" and accordingly became effective 20 days after the adjournment of the 1962 legislature, *i.e.*, August 1, 1962. See *Acts of Louisiana, Regular Session 1962*, pp. iii, 123 (Act 62).

[21] Existing provisions of Section 1 of Article VIII of the State Constitution (*supra*, p. 4) were apparently viewed as a sufficient predicate for the legislation.

evidence that, in at least one parish, the former constitutional interpretation test was revived. See *United States* v. *Clement*, 231 F. Supp. 913, 915 (W.D. La.).

### C. THE DECISION BELOW

The court below (Judge West dissenting) found that the interpretation test "was adopted in 1921 for the purpose of creating a device to discriminate against Negroes"; that until the 1950's "the test was not needed and not used"; that State officials in the 1950's reaffirmed the test's discriminatory purpose when they urged that it be used to disfranchise Negroes; that since the mid-1950's the test consistently has been used to achieve its intended discriminatory purpose (R. 86); and that it had succeeded in disenfranchising Negroes, directly when used against them, indirectly by inhibiting others from applying for registration (R. 135). The court concluded that the interpretation test vests in the registrars an uncontrolled discretion to determine subjectively which persons are qualified to vote, that it bears no relationship to literacy or to any qualification for voting within the legitimate interest of the State (R. 87), and that it is unconstitutional "because of its unlawful purpose, operation, and inescapably discriminatory effect" (R. 139–140).

With respect to the new multiple-choice "citizenship" test, the court concluded that it makes registration more difficult for future applicants than it had been for white persons in the twenty-one parishes where the interpretation test had been used (R. 88). The court found that the State had neither ordered a

re-registration in the twenty-one parishes, nor taken any other steps to correct the discrimination resulting from the interpretation test (R. 88), and that the use of the new test inevitably discriminates against Negroes since they constitute the unregistered class (R. 88).

In its decree the court declared the Louisiana constitutional and statutory provisions authorizing the interpretation test unconstitutional (R. 81) and enjoined the defendants and their agents, including all Louisiana registrars, from using the test (R. 83). The court also issued an injunction restraining the registrars of the twenty-one parishes where the test had been used in the past from requiring, in the absence of a general re-registration of all voters in the parish, any applicant for registration who was of voting age and possessed of the residence requirements as of August 3, 1962 (the date the new test was adopted) to take the multiple-choice "citizenship" test as a prerequisite to registration to vote (R. 82).[21] The registrars of the twenty-one parishes were further ordered to submit monthly reports to the court showing, by race, the persons accepted and rejected, and, in the case of rejected applicants, the reasons for rejection (R. 83).

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[21] The court retained jurisdiction "for the purpose of entering such additional orders as justice may require, including orders of modification upon proof by the defendants that in one or more of the * * * twenty-one parishes the discriminatory effects of the interpretation test have ceased to exist or upon proof by the plaintiff that additional parishes not embraced in this decree have used the understanding or interpretation test to discriminate against Negroes" (R. 83).

## SUMMARY OF ARGUMENT

### I

Because the issues are fully briefed in the companion case of *United States* v. *State of Mississippi* (No. 73), we do not here repeat the discussion directed to two threshold questions: (1) whether the United States is authorized to institue proceedings challenging the constitutionality of State voter qualification laws (as opposed to the independent local practices of individual registrars), and (2) whether, in any event, the State itself may be joined as a party defendant in such an action (particularly when there are local registrars amenable to suit). We here adopt the affirmative conclusion on those points and the supporting arguments already given in the *Mississippi* case.

A third preliminary argument is that the State Board of Registration of Louisiana is not a proper defendant. Our reply is that the board is expressly charged by statute (and now by the State Constitution) with prescribing the practical means for implementing the voter qualification laws, including the constitutional understanding-and-interpretation clause, and that it can, moreover, effectively control the local registrars through its plenary power to remove them "at will."

It is also contended that the local registrars of voters (who were not joined) were indispensable parties defendant. The short answer is that, though they were necessarily affected by the decree and would have been proper parties, the individual registrars were not indispensable because they had no personal in-

terest in the outcome nor any personal defense to the claim. The suit did not seek to control the registrars' discretion: the only objective of the proceeding was to enjoin the execution of invalid State laws, and that State interest was appropriately represented by the named defendants, the State Board and the State itself.

## II

The Louisiana constitutional and statutory provisions conditioning voting registration on the applicant's ability to "understand and interpret" any section of the state or federal Constitutions contravene the Fifteenth Amendment (and 42 U.S.C. 1971(a)) because, potentially and actually, they invite racial discrimination in the qualification of voters.

A. On its face, the Louisiana constitutional interpretation test is suspect. It is no mere literacy test: it erects an unnecessarily difficult standard which, if taken seriously, would bar the franchise to most adults. Presumably, it was designed for selective enforcement. The test is admirably suited to that end. The subjective standard is necessarily vague and, given the great disparities among the several examination texts, it is inherently unequal. Moreover, no effort is made to confine (by statute or by uniform regulation) the absolute discretion of individual registrars with respect to the procedures to be followed in administering the test or the criteria for judging the adequacy of the constitutional interpretation given by an applicant. The opportunities for discrimination which the interpretation test presents do not represent remote possibilities. In light of the prevailing public

and private pressures, it was almost inevitable that the flexibility of the provision would be widely used as a device to bar the Negro from the exercise of the franchise.

B. The history of the practical administration of the interpretation test fully confirms this view. In fact, the apparently mandatory qualification was ignored until it became useful as a means of holding Negro registration within "tolerable limits." When and where actually used, however, the interpretation test has been effective, as the registration statistics for the 21 parishes involved dramatically demonstrate. The evidence is that racial discrimination resulted from the inherent versatility of the test, which condoned gross disparities, along color lines, in the mode of administration, the selection of examination texts, and the grading of responses. We conclude that the implementation of provisions which breed these practices was properly enjoined.

III

Finally, we address ourselves to the conditional injunction against the use of a new multiple-choice "citizenship" test in those 21 parishes where it was shown that the constitutional interpretation test had been used, until such time as there has been a complete reregistration of voters in those parishes. That relief was wholly appropriate in the present circumstances because it was the only practical means of partially erasing the discriminatory effect of the interpretation test. If the new high standard were now applied to future registrants it would impose an unfair burden

upon Negroes improperly denied registration through the interpretation test, and would "freeze" on the rolls those whites who were registered under more favorable and discriminatory conditions.

## ARGUMENT

### I

### THE UNITED STATES IS AUTHORIZED TO MAINTAIN THE PRESENT ACTION AND TO JOIN AS DEFENDANTS THE STATE AND THE STATE BOARD OF REGISTRATION, WITHOUT ALSO JOINING THE INDIVIDUAL REGISTRARS

So far as it is argued here that this suit by the United States is unauthorized (because it challenges the validity of voter qualification laws, and not merely the personal misdeeds of individual registrars) and that the State itself may not be sued (at least when registrars are available as defendants), the contentions are identical to the points advanced by the State in the companion case of *United States* v. *State of Mississippi* (No. 73). Indeed, for these propositions, the present appellants wholly rely on the majority opinion below in that case, and we agree that the same considerations govern both cases. Accordingly, on these issues, we respectfully refer the Court to our brief in the *Mississippi* case (see pp. 43–65).

There remain, however, two procedural questions which require separate treatment here. These are: (1) whether the State Board of Registration (or its members, the Governor, Lieutenant Governor and Speaker) was properly joined as a party defendant in this action; and (2) whether the local registrars of voters (all of them or those of the 21 parishes

most directly affected by the decree) were indispensable parties without whom the suit could not proceed.

### A. JOINDER OF THE STATE BOARD OF REGISTRATION WAS PROPER

The State Board of Registration has an important role in the administration of the Louisiana constitutional and statutory provisions under attack. Notwithstanding appellants' claim that neither the Board of Registration nor any of its members is charged with enforcing or are threatening to enforce any of the provisions challenged here (App. Br. 9, 11), Section 191 of Title 18 of the Louisiana Revised Statutes explicitly vests the Board with the duty to "prescribe by rules and regulations * * * the method of the administration of this Chapter" (*i.e.*, Chapter 1 of Title 18, entitled "Registration of Voters", which contains each of the statutory provisions implementing the constitutional interpretation test, *supra*, p. 3). To be sure, until 1962, the Board did little to assert its prerogative (see Statement, *supra*, p. 28), but the power remained. Moreover, in 1962, the Board's rule-making authority was expressly confirmed by constitutional amendment (La. Const. Art. VIII, § 18, as amended by La. Act 539 of 1962), and, in the same year, it was expressly directed both by the State Constitution (*ibid, supra*, p. 4) and by statute (La. R.S. 18:181A, as amended by La. Act 62 of 1962, *supra*, p. 5) to fashion, and instruct the registrars to administer, the "citizenship" test now enjoined in 21 parishes. And it complied (see Statement, *supra*, p. 44).

In the circumstances, it was clearly proper to join the members of the State Board, if only to relieve them, and the local registrars whom they have power to remove "at will" (La. Const., Art. VIII, § 18), from the dilemma of conflicting directives. Cf. *Bush* v. *Orleans Parish School Board,* 187 F. Supp. 42 (E.D. La.), affirmed, 365 U.S. 569; *id.,* 188 F. Supp. 916, 928–929, affirmed, 365 U.S. 569; *id.,* 190 F. Supp. 861, 865–866, affirmed, 366 U.S. 212; *id.,* 191 F. Supp. 871, 873–875, affirmed, 367 U.S. 908. See, also, *United States* v. *Barnett,* 376 U.S. 681, 684.[22]

There is, in any event, no requirement that relief be sought, or granted, only against the subordinate official most immediately engaged in administration of the challenged law. On the contrary, it is well settled that a three-judge court may properly enjoin all those charged with executing an unconstitutional statute. *Bevins* v. *Prindable,* 39 F. Supp. 708 (E.D. Ill.), affirmed *per curiam,* 314 U.S. 573; *Orleans Parish School Board* v. *Bush,* 268 F. 2d 78, 80 (C.A. 5).

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[22] A student of Louisiana Constitutions for the Louisiana Law Institute notes that:

> The [1921 Louisiana] Convention placed the power to remove any registrar in the State in the hands of an *ex officio* board of registration composed of the governor, lieutenant governor, and speaker, a majority of whom were more than likely to be white men. Should any registrar show a tendency to administer the new registration tests too liberally, or otherwise to conduct his office in a manner displeasing to the administration, the state board could remove him at will. * * *

Powell, *A History of Louisiana Constitutions*, Volume 1, Part 1, *Project of a Constitution for the State of Louisiana* (1954), p. 485.

See, also, *James* v. *Almond*, 170 F. Supp. 331, 341 (E.D. Va.), appeal dismissed, 359 U.S. 1006; *Evans* v. *Members of the State Board of Education*, 149 F. Supp. 376, 378 (D. Del.), affirmed *sub nom. Evans* v. *Buchanan*, 256 F. 2d 688 (C.A. 3), certiorari denied, 358 U.S. 836. The Louisiana Board of Registration, like the Board of Election Commissioners of Mississippi,[93] clearly falls in that category.

B. THE INDIVIDUAL REGISTRARS WERE NOT INDISPENSABLE PARTIES.

The contention that the registrars are indispensable parties to this suit is likewise without merit. A party is indispensable only if the decree would injuriously affect his rights or leave the final determination of the controversy inconsistent with equity and good conscience. *Shields* v. *Barrow*, 17 How. 130. The registrars of voters in Louisiana are not personally interested in a decree which enjoins them from enforcing certain provisions of State law. They have no "right" to enforce particular laws which are declared invalid. Nor is it inconsistent with equity and good conscience to invalidate a State law in a proceeding defended by the State itself. Indeed, if every agent who is bound by a decree need be joined as a defendant, there would be no need for Rule 65(d), F. R. Civ. Proc., which states that "[e]very order granting an injunction * * * is binding * * * upon parties to the action, *their officers, agents, servants, employees and attorneys*" (emphasis added).

[93] See the Brief for the United States in *United States* v. *State of Mississippi*, No. 73, this Term, pp. 66–68.

The question of indispensability arises in suits against governmental officials only when the action is against a subordinate and the issue is whether his superior must be joined. Compare *Ceballos* v. *Shaughnessy,* 352 U.S. 599; *Shaughnessy* v. *Pedreiro,* 349 U.S. 48. A superior may have the right to defend the actions of a subordinate under a program which it is the superior's ultimate responsibility to administer. The subordinate's only interest, on the other hand, is to do what his superior commands. Since the State and the State Board of Registration are parties to this suit, and have the opportunity to defend their interests, the subordinate's rights are in no way affected. While the registrars would have been proper parties, they are not indispensable.

## II

### THE LOUISIANA CONSTITUTIONAL AND STATUTORY PROVISIONS CONDITIONING REGISTRATION AS A VOTER ON THE APPLICANT'S ABILITY TO "UNDERSTAND AND INTERPRET" ANY SECTION OF THE STATE OR FEDERAL CONSTITUTIONS CONTRAVENES THE FIFTEENTH AMENDMENT AND 42 U.S.C. 1971

The central issue in this case is the constitutionality of the Louisiana "understanding and interpretation" test for voter registration, now embodied in Section 1(d) of Article VIII of the State Constitution and implementing legislation (*supra,* pp. 2–3). The court below struck it down on the ground that, in purpose and effect, the test is an instrument of racial discrimination. That ruling was the predicate for the further injunction prohibiting (subject to prescribed conditions) the use of a new voting test—the so-

called "citizenship" test—in those 21 parishes of the State where the evidence showed that the old interpretation test had been employed (see Point III, *infra*, pp. 76–80).

The provision in question requires of every applicant for registration as a voter (and no one may vote without first being registered)[94] that he "be able to understand and give a reasonable interpretation of any section of either [the State] Constitution [or the federal Constitution]." So reads the Louisiana Constitution today (Art. VIII, § 1(d), *supra*, p. 2), and so it has read, in substance, since 1921 (former Art. VIII, §§ 1(c) and 1(d), Appendix B, *infra*, pp. 87–90).[95] Nothing in the implementing legislation elucidates the constitutional text (see La. R.S. 18: 35–36, *supra*, p. 3).[96] The law nowhere specifies how

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[94] La. Const., Art. VIII, § 1(b); La. R.S. 18: 581–582.

[95] We have already noted that, until 1960 (when literacy was made a qualification for all future registrants), the State Constitution and statutes separately announced the qualifications applicable to literate and illiterate voters, although the requirements (except proof of literary) were much the same for both classes, including, in each case, a constitutional interpretation test (*supra*, pp. 18–20). The only relevant textual difference was the word "understand," originally confined to the provision for illiterates. At all times since 1921 every voter has been (at least nominally) required to "be able to * * * give a reasonable interpretation" of any portion of the federal or State Constitutions. See the comparative text of the pertinent Louisiana constitutional provisions reproduced in Appendix B, *infra*, pp. 87–90.

[96] The cited statutes merely track the pertinent language of former subsections (c) and (d) of Section 1 of Article VIII of the State Constitution. Though not revised in 1960 when the Constitution was amended, the statutory provisions must presumably now be read consistently with the new organic law.

the voting test shall be administered, thus leaving it to local registrars (at least in the absence of clear instructions from the State Board) [97] to determine for themselves, in each case, whether to examine an applicant formally and, if so, what procedure to follow and how to judge the response. The evidence is that the applicable constitutional and statutory provisions announcing the interpretation test have always been treated as merely permissive, allowing each registrar to use it or not, as he chose, and that the test was, in fact, generally waived for three decades throughout the State and never administered in some communities. It was shown that, when used, the test procedures varied widely, from year to year, from place to place and from applicant to applicant. The overwhelming proof shows, however, that, notwithstanding the disparities, a common thread of racial discrimination runs through the practices. Conformably to the original plan, the inherent flexibility of the constitutional interpretation test, combined with the uncanalized discretion vested in local registrars, has invited a "discriminating" application, characterized by selective enforcement and, where necessary, the use of a double standard—all geared to the effective disfranchisement of a substantial portion of the adult Negro population.

Such is the scheme revealed by the present record. The ingredients are a vague subjective test for which the law neither defines the substantive standard nor fixes the applicable procedures—in short, a broad

[97] As we have noted in the Statement (*supra*, p. 28), no such instructions bearing on the interpretation test were issued.

license for discrimination—and a selective and uneven, but consistently discriminatory, course of administration. The result is an inseparable whole—part textual law, part layers of gloss accreted by long practice—bonded together by the common understanding of lawmakers and administrators for four decades. In the circumstances, it was appropriate to enjoin not only the deviations of individual registrars, but also to invalidate the underlying laws which, in the prevailing climate of public and private pressures, almost unavoidably breed those practices—and thus to extirpate root and branch the long-flourishing system of discrimination.

The governing principles have been fully discussed in the brief for the United States in the companion case of *United States* v. *Mississippi*, No. 73 (pp. 81–89), and need not be repeated here. It is enough to recall the familiar doctrine that no law may stand which invests an administrator with uncanalized discretion to grant or deny fundamental rights,[98] and also the obvious corollary that such laws are all the more vulnerable when they are shown in actual operation to have worked gross discrimination.[99] It re-

[98] To the cases cited in our *Mississippi* brief in support of this proposition, the following decisions of this Court may appropriately be added: *Joseph Burstyn, Inc.* v. *Wilson*, 343 U.S. 495; *Gelling* v. *Texas*, 343 U.S. 960; *Superior Films, Inc.* v. *Department of Education*, 346 U.S. 587; *Kunz* v. *New York*, 340 U.S. 290; *Aptheker* v. *Secretary of State*, 378 U.S. 500, 514.

[99] For the proposition that "in passing upon constitutional questions the court has regard to substance and not to mere matters of form, * * * in accordance with familiar principles, the statute must be tested by its operation and effect," we should add the decisions in *Near* v. *Minnesota*, 283 U.S. 697,

mains only to show in what respects the Louisian voting provisions, like those of Mississippi, are potential instruments of discrimination and how they have, in fact, been used to that end.

A. DISCRIMINATORY POTENTIAL OF THE LOUISIANA CONSTITUTIONAL INTERPRETATION TEST

It is impossible to approach the present constitutional interpretation test without noticing that it

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708, and *Griffin* v. *Illinois*, 351 U.S. 12, 17, n. 11. Also relevant is the ruling in *Watkins* v. *United States*, 354 U.S. 178, 202–203, where vagueness was imported into the language of an authorizing resolution of the House Un-American Activities Committee by a fifteen-year chain of events in the committee's history. This Court combined "the language of the resolution with the construction it [had] been given." *Id.* at 203.

The following statements by the Court or individual Justices should be noted in connection with *Yick Wo* v. *Hopkins*, 118 U.S. 356:

Mr. Justice Holmes, dissenting, in *Bailey* v. *Alabama*, 219 U.S. 219, 246:

> "Neither public document nor evidence discloses a law *which by its administration is made something different from what it appears on its face* * * * *Yick Wo* v. *Hopkins*, 118 U.S. 356 does not apply" (emphasis added).

Mr. Justice Douglas, dissenting, in *Snowden* v. *Hughes*, 321 U.S. 1, 18–19:

> "If the law is 'applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances' (*Yick Wo* v. *Hopkins*, 118 U.S. 356, 373–374), *it is the same as if the invidious discrimination were incorporated in the law itself*" (emphasis added).

Mr. Justice Black, for the Court, in *Kotch* v. *Pilot Commissioners*, 330 U.S. 552, 557:

> "* * * it made no difference that under the law as written Yick Wo would have enjoyed the same protection as all others. Its unequal application to Yick Wo was enough to condemn *it*. But Yick Wo's case, as other cases

copies similar provisions adopted for avowedly discriminatory purposes in Mississippi,[100] once rejected by Louisiana as an effective, but less than forthright, means of barring Negroes from the franchise (see Statement, *supra*, p. 13), and that it was later mirrored in the racially motivated Boswell Amendment of Alabama.[101] Nor can we properly ignore the indications that Louisiana resorted to the "understanding clause" as a substitute for the patently discriminatory "grandfather clause" when this Court outlawed the latter (see Statement, *supra*, pp. 16–18). Those are strong reasons for doubting the legitimacy of the objectives which the test is meant to further. But we do

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have demonstrated, was tested by the language of the law there considered and the administration there shown" (emphasis added).

Mr. Justice Rutledge, dissenting, in the same case, 330 U.S. at 566–567:

"The case therefore falls squarely within the ruling in *Yick Wo* v. *Hopkins*, 118 U.S. 356 [footnote omitted], * * * in the fact that unconstitutional administration of a statute otherwise valid on its face incurs the same condemnation *as if the statute had incorporated the discrimination in terms*" (emphasis added).

See, also, *Austin* v. *Tennessee*, 179 U.S. 343, 349–350; *Atchison, Topeka and Santa Fe Railroad Co.* v. *Matthews*, 174 U.S. 96, 105.

[100] See the Brief for the United States in *United States* v. *Mississippi*, No. 73, this Term, pp. 10–15. Also noteworthy is the South Carolina precedent. In 1895 that State adopted a provision granting a permanent voting license to illiterates who, in the ensuing three years, could "understand and explain" any section of the State Constitution, but requiring all subsequent registrants to meet a literacy or property qualification. S.C. Const. 1895, Art. II, § 4(c)(d). Presumably the purpose was to permit white illiterates to qualify for life.

[101] See *Davis* v. *Schnell*, 81 F. Supp. 872, 878–881 (S.D. Ala.), affirmed, 336 U.S. 933.

not rest our case on impermissible purpose. The challenged provisions, on their face and as applied, are vulnerable on other counts.

1. Even if nothing were known of its parentage, one might ask whether the Louisiana constitutional interpretation test can be said to have any reasonable relation to voting qualification. To be sure, the States enjoy a wide latitude in determining the conditions upon which the franchise shall be exercised. See *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 50–53. Yet, there are limits. Plainly, no State can confine the right to vote for State-wide officers to residents of the countryside. Cf. *Gray* v. *Sanders*, 372 U.S. 368. Likewise, it would seem clear that there can be no capricious distinction made on the basis of physical traits or other characteristics wholly unconnected with the ability to participate meaningfully in the political process—regardless of whether the excluded class is large or small. Nor do we suppose that, today, the franchise can be restricted to persons over 60, to lawyers, to farmers, to third-generation residents of the State, or to any other peculiar minority. Here, as elsewhere, the Constitution requires a rational nexus between the rule adopted and a legitimate objective, and, when this most fundamental right is involved—whatever "the conception * * * of a bygone day"—it is surely axiomatic in our present democracy that no classification is reasonable which makes arbitrary distinctions with respect to the franchise. Cf. *Gray* v. *Sanders*, *supra*, 372 U.S. at

376–377, n. 8, 380; *Wesberry* v. *Sanders*, 376 U.S. 1, 7, 18.[102]

At first blush, the Louisiana "understanding" clause may appear to announce a mere literacy test, confined (to avoid undue vagueness) to two appropriately political basic texts, the federal and State Constitutions. That, however, would be a false appraisal. Louisiana does indeed have literacy tests: one is the application form for registration which the prospective voter must complete unaided; the other is embodied in a requirement that the applicant read, and write from dictation, a portion of the Preamble to the Constitution of the United States. See La. Const., Art. VIII, § 1(c), as amended (Appendix B., *infra*, pp. 87–90). The provision in suit is of a very different character. It is in no sense a test of literacy. On the contrary, as we have already noted (Statement, *supra*, pp. 18–20), the clause of the State Constitution which today announces the interpretation test was, for four decades, expressly applicable to those who were "not

[102] In providing that Representatives shall be "chosen . . . by the People," and defining that mass as including all those who "have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." (Art. I, § 2), the Constitution necessarily assumes that some State elections are determined by "popular vote." Madison's boast that federal Representatives would be chosen by "the great body of the people of the United States" (*The Federalist*, No. 57, quoted in *Wesberry*, *supra*, 376 U.S. at 18), suggests that most "people" (presumably then understood as free white adult males) would participate in the election of at least one house of the State legislature. But, however that may be, as *Gray* v. *Sanders* makes clear, the enactment of the Fourteenth, Fifteenth, Seventeenth and Nineteenth Amendments has expanded the constitutional view of popular government.

able to read or write," and, since 1960, operates only with respect to applicants who have already demonstrated their literacy.[103] It remains to consider whether the requirement in question may be viewed as a test of basic civics (assuming every voter may be required to know something of the powers and responsibilities of those he elects) or a simple test of verbal comprehension (assuming the voter should be able to understand the views of the several candidates and of those who comment on them).

Doubtless, in the best of all possible worlds, every voter would be able to understand every part of the organic law which established and defined his government. But in that Utopia, we may assume, the laws would be akin to those of Brobdingnag:

> No law of that country must exceed in words the number of letters in their alphabet, which consists only of twenty-two. But indeed few of them extend even to that length. They are expressed in the most plain and simple terms, wherein those people are not mercurial enough to discover above one interpretation; and to write a comment upon any law is a capital crime.[104]

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[103] So much is suggested by the inclusion of the constitutional interpretation test in subsection (d) of the first section of Article VIII of the State Constitution (captioned "Character and understanding"), after the literacy tests already noted which are embodied in subsection (c) (captioned "Character and literacy"). See Appendix B, *infra*, pp. 87–90. That reading is confirmed in the instructions of the State Board of Registration (e.g., R. 803) and the actual practice of registrars.

[104] Swift, *Gulliver's Travels* (Universal Library ed.), p. 132.

That is not the world faced by the Louisiana registrant. Even the Constitution of the United States—by far the easier of the two examination texts—is not without its difficulties for the uninitiated. Putting to one side such elusive concepts as "due process" in the Fifth and Fourteenth Amendments, "unreasonable searches" in the Fourth and "taking" in the Just Compensation Clause of the Fifth, which have been subject to varying interpretations here, and archaisms like "letters of marque and reprisal" (Art. I, § 8, cl. 11; § 10, cl. 1), "capitation" (Art. I, § 9, cl. 4), "bill of attainder" (Art. I, § 9, cl. 3; § 10, cl. 1) and "presentment" (Amend. V), which are obscure to the layman, there are provisions of the federal constitution which do not yield their meaning on first reading. We need only cite the clauses defining the scope and distribution of the judicial power (Art. III, § 2, cls. 1 and 2), the provisions relating to the electoral college (Art. II, § 1, cl. 3; Amend. XII), and the two "privileges and immunities" clauses (Art. IV, § 2, cl. 1; Amend. XIV, § 1). Yet, those difficulties are as nothing compared with the obstacles which the Louisiana Constitution presents. Some notion of the detailed complexity of that document is revealed by its length, more than 300 pages in the official print, without commentary or annotations. It is no exaggeration to say that most of the provisions of Articles X ("Revenue and Taxation"), XIV ("Parochial and Municipal Affairs"), XVI ("Levees"), and XVIII ("Pensions")—which together occupy some hundred printed pages—are utterly bewildering to all but the tax specialist, the financial expert or the lawyer.

There are also disarmingly short, but cryptic, provisions. Thus, Section 18 of Article XIX reads in whole: "The exercise of the police power of the State shall never be abridged." And, without further explanation, Section 8 of Article V provides: "The Lieutenant Governor shall be ex-officio President of the Senate, but shall have a casting vote only therein."

The plain fact is that an ability to comprehend all the provisions of the federal and State Constitutions can be expected of no man not specially trained in the art. It is doubtful whether most elected State officers are equal to the task—nor need they be, most of them having only a limited sphere of action, and, for that, the benefit of legal counsel. Indeed, several registrars of voters candidly confessed that they did not understand some sections of the State Constitution (R. 405, 468, 517, 596). Certainly, no such ability is necessary to know what the candidates for political office are saying: none would be so rash as to appeal to the electorate in the detailed terminology of the Louisiana Constitution. The suggestion that the requirement in suit is a test of "native intelligence," which "book learning" cannot affect (R. 650–651, 795), is patently false. The short of it is that, if taken seriously, the constitutional interpretation test would restrict the franchise in Louisiana to the legal fraternity, and probably not all of that small class. Plainly, no such intent can be ascribed to the drafters of the Louisiana Constitution. As one commentator has put it, "if any test of understanding were applied at all to any substantial number of citizens of status, the registrars would be hanged to the nearest lamp

post and no grand jury could be found that would return a true bill." Key, *Southern Politics* (1949), p. 577.

Because it imposes an impossible standard, so obviously inappropriate as a reasonable qualification for voting, the test is inherently suspect. A closer look at the mechanics of its administration will show how it invites discrimination.

2. The constitutional interpretation test is inherently vague. As Governor Foster of Louisiana recognized in 1898 when his State rejected the example of Mississippi and South Carolina, such provisions are not "certain and fixed"; they leave "the admission of the applicant to the exercise of the electoral franchise largely to the arbitrary discretion of the officers administering the law." [105] The reasons are many.

*First*, the standard itself is ill-defined. What is an ability to "understand" and "interpret" a constitutional section? Those terms are themselves susceptible of widely differing interpretations. Nor is the measure of comprehension expected made clearer by specifying that a "reasonable" interpretation is required. The vagaries of that word are obvious.[106] Cf. *Cline* v. *Frink Dairy Co.*, 274 U.S. 445; *United States* v. *Cohen Grocery Co.*, 255 U.S. 81.

*Second*, the several examination texts vary greatly in length and difficulty. The requirement is that the

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[105] Louisiana Senate Journal, 1898, p. 33. See Statement, *supra*, p. 15.

[106] As we have already noted, the vague language of the Louisiana Constitution is not elucidated by the implementing legislation, which merely tracts the constitutional text. See *supra*, pp. 55–56.

registrant be able to interpret "any section" of the federal or State Constitutions. Practical considerations of course dictate that, as to each applicant, one or a very limited number of provisions be used in testing. There are 443 separate sections in the Louisiana Constitution and 56 in the Constitution of the United States. We have already noticed that each contains very complex or obscure provisions; but there are also short and simple sections in both instruments. Even if the test section is chosen "at random" (as is sometimes claimed, see, *e.g.*, R. 517), a very uneven treatment of voters inevitably results. If, on the other hand, the registrar selects the constitutional section, the opportunities for discrimination are enormous. The potentialities are well stated by a delegate to the Louisiana Constitutional Convention of 1898:

> This "understanding clause" fixes no standard of qualification for the franchise. It is left to the discretion of the registration officer to select any one of the numerous articles of the Constitution as the test of the voter's understanding; and there are, therefore, as many different tests as there are articles in the Constitution. This arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance. * * *[107]

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[107] Kernan, *The Constitutional Convention of 1898 and its Work*, Proceedings of the Louisiana Bar Association for 1899, pp. 54, 59–60.

*Third,* inherently vague and varied as it is, nothing is done to standardize the procedure for administering the test. On the contrary, registrars are given no instruction by the Louisiana Constitution or statutes (or even by the central State Board of Registration);[108] each of them is left to devise his own practice, and to vary it or depart from it as the occasion may counsel him. Indeed, as we have already noted, while the law would seem to be mandatory, the provisions embodying the constitutional interpretation test have, in practice, always been treated as merely permissive, to be invoked by registrars, or not, as they choose.[109] So, also, the administrative practice has always ignored the apparent distinction in the law between giving the applicant a written text to read (under former subsection (c) of Section 1 of Article VIII of the Constitution, once applicable to literate applicants and now repealed) and reading him a section (under subsection (d), once applicable to illiter-

[108] See statement, *supra*, p. 28.

[109] In some instances, registrars have justified their failure to actually test an applicant on the ground that the relevant provisions of law only require that a voter "be able" to understand and interpret a constitutional section; hence, if the official personally knew the registrant and his obvious ability to meet the requirement, a formal examination was unnecessary (*e.g.*, R. 350, 511). The vice of that practice under a rule of white registrars is obvious. Compare the "voucher" system (requiring an applicant to be identified by two registered voters) once used in Madison Parish. See *United States* v. *Ward*, 222 F. Supp. 617 (W.D. La.). Compare the grand jury selection procedure once followed in New Orleans, noted in *Eubanks* v. *Louisiana*, 356 U.S. 584, 586, and the "alumni recommendation" rule practiced at the University of Mississippi, annulled in *Meredith* v. *Fair*, 298 F. 2d 696, 701–702; *id.*, 305 F. 2d 343, 352–353.

ates, and now generally applicable); registrars have in fact done as they wished on that score—and without reproof. But, in any event, the registrar is otherwise wholly unconfined as to procedure.

Thus, so far as the law is concerned, each registrar may determine what test section to use, by himself opening, or allowing the applicant to open, a volume containing either or both constitutions "at random"; or he may use "test cards," selecting the card for each registrant, or leaving it to chance; or he may, without further ado, unilaterally determine the test section for each applicant; or, finally, he may allow the prospective voter to pick his own text. The registrar is free to use the same section on every applicant, or on every member of a given class; or he may vary the texts with each registrant. Nor is the registrar limited to a single test section: he may examine any applicant on any number of constitutional provisions. So, also, the law leaves it to each registrar whether to require a written or an oral interpretation. And, in all this, the registrar is free to ignore the sharp degrees of difficulty between one text and another, as well as the greater or lesser burden imposed by one procedure as compared to another.

*Fourth,* and perhaps most important, the governing provisions vest full discretion in the registrar to "grade" the interpretation test. Under a system in which the only standards are vague and subjective, which eschews mandatory or uniform procedure,

which permits—indeed suggests [110]—a wholly oral administration of the test, and requires no written record to be made or kept, the power conferred is unconfined. As one Louisianian observed at the turn of the century, in the circumstances the prerogative of judging "practically places [the registrar's] decision beyond the pale of judicial review, [allowing him to] enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance." [111]

3. We have outlined the opportunities for discrimination which the Louisiana constitutional interpretation test offers on the face of the provisions which establish it as a qualification for voters. Perhaps, "[i]t is enough that a vague and broad statute lends itself to selective enforcement against unpopular causes." *NAACP* v. *Button*, 371 U.S. 415, 435. But it is not inappropriate to make an appraisal in the particular context within which the system operates. The realities confirm that the image of registrars using the test as a "device [for] racial discrimination" (*Lassiter* v. *Northampton County Board of Elections, supra*, 360 U.S. at 53) or "a cloak to discriminate against one class or group" (*Gray* v. *Sanders, supra*, 372 U.S. at 379) is "neither speculative nor remote." *Bates* v.

[110] As already noted, the present constitutional provision literally requires the applicant to "*give*" (not "write") an interpretation of a section "when *read to him* by the registrar." La. Const., Art VIII, §1(d). Originally, this language plainly contemplated a wholly oral test, since it was expressly applicable to those who could not read or write. Presumably, the words carry the same implication today, although they are now part of a provision applicable to literates.

[111] See note 107, *supra*.

*Little Rock*, 361 U.S. 516, 524. Before noticing the actual practice, we pause to consider the racial climate of Louisiana, unavoidably a factor in the administration of the interpretation test. The "pressures" which a "political dominant white community" can exert on local officials cannot be ignored. *NAACP* v. *Alabama*, 357 U.S. 449, 463; *Bates* v. *Little Rock*, *supra*, 361 U.S. at 524; *Louisiana* v. *NAACP*, 366 U.S. 293, 296; *NAACP* v. *Button*, *supra*, 371 U.S. at 435–436; *Gibson* v. *Florida*, 372 U.S. 539, 548; at n. 3; *Anderson* v. *Martin*, 375 U.S. 399, 403; cf. *Shelton* v. *Tucker*, 364 U.S. 479, 487.

We need not elaborate the general pattern of racial discrimination prevailing in Louisiana since the constitutional interpretation test came into being. Those practices are sufficiently revealed in cases which have reached this Court in the last forty years. They involve discrimination against the Negro in jury selection (*Pierre* v. *Louisiana*, 306 U.S. 354; *Eubanks* v. *Louisiana*, 356 U.S. 584; *Poret* v. *Sigler*, 361 U.S. 375), housing (*Harmon* v. *Tyler*, 273 U.S. 668), education (*Board of Supervisors* v. *Wilson*, 340 U.S. 909; *Bush* v. *Orleans Parish School Board*, 365 U.S. 569, 366 U.S. 212, 367 U.S. 907, 908, 368 U.S. 11; *St. Helena Parish School Board* v. *Hall*, 368 U.S. 515), transportation facilities (*Morrison* v. *Davis*, 252 F. 2d 102 (C.A. 5), certiorari denied, 356 U.S. 968; *Taylor* v. *Louisiana*, 370 U.S. 154), entertainment (*State Athletic Commission* v. *Dorsey*, 359 U.S. 533), recreation (*New Orleans City Park Improvement Association* v. *Detiege*, 358 U.S. 54; *City of New Orleans* v. *Barthe*, 376 U.S. 189), public restaurants (*Garner* v. *Louisiana*,

368 U.S. 157; *Lombard* v. *Louisiana*, 373 U.S. 267), and other activities (*e.g.*, *Louisiana* v. *NAACP*, 366 U.S. 293).[112] Not surprisingly, the same attitudes are reflected in the several phases of the electoral process. *United States* v. *Thomas*, 362 U.S. 58; *Anderson* v. *Martin*, 375 U.S. 399. See, also, *Hannah* v. *Larche*, 363 U.S. 420.

In this atmosphere, it would be wholly unreal to expect native white registrars[113] to remain altogether color-blind. Whether consciously or unconsciously, they obviously have been affected by the "tradition" which influences "the general thinking of the community." Cf. *Eubanks* v. *Louisiana*, *supra*, 356 U.S. at 588. Encouraged by a broad license and a standard so vague that discrimination could pass undetected, it is difficult to suppose that registrars would not succumb to the invitation. Indeed, the administrators of the interpretation test might well feel themselves "entrusted" with the mission of preserving "white supremacy"; in 1898 opponents thought the adoption of an interpretation clause was tantamount to "sending

[112] For a more complete description of Louisiana's racially discriminatory attitudes, see the concurring opinion of Mr. Justice Douglas in *Garner* v. *Louisiana*, *supra*, 368 U.S. at 179–181, and pp. 65–71 of the Brief for the United States in *Lombard* v. *Louisiana*, *supra*, No. 58, October Term, 1962.

[113] All the Louisiana registrars were white when this suit was tried below (R. 622) and it is a fair inference that the same situation has prevailed at least since 1898.

word to the registrars" to bar Negroes from the franchise (R. 114).[114]

We note additionally that registrars were made removable "at will" by the central State Board. See La. Const., Art. VIII, § 18. Thus, beholden to the local parish officials for their appointment (and reappointment) and serving at the pleasure of the highest State officers, they can be made keenly aware of public opinion at all levels.[115] Nor have such pressures been lacking. The Louisiana registrars have not been left entirely to their own instincts. As the Statement details (*supra*, pp. 21–28), in recent years, encouragement, suggestions, and even threats, from official State committees and other groups, have counseled registrars to make effective use of the discriminatory instrument placed in their hands.

B. DISCRIMINATORY PRACTICE UNDER THE LOUISIANA CONSTITUTIONAL INTERPRETATION TEST

We have examined the constitutional interpretation test and its potential for discrimination. It re-

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[114] See, *e.g.*, the testimony of Mrs. Jones, the registrar of voters for Lincoln Parish between 1940 and 1961 (R. 510):

> Well, when the people of Lincoln Parish gave me this position they—I accepted it and was put under bond. They really thought I could handle it, or they wouldn't have let me have been the registrar. So I have tried to do exactly what the people were expecting me to do, and that is follow that law. So that's the way I've done. I haven't ever been reprimanded or nothing. How did you get the idea I had?

The ambiguous statement that she felt obliged "to follow the law" is illumined by Mrs. Jones' later testimony that she ignored the interpretation for years because "it just wasn't necessary" until "[t]hey had the colored lined up there" (R. 511).

[115] See note 92, *supra*.

mains only to recapitulate the results, already fully reported in the Statement, *supra*, pp. 27–43.

The history of the practical administration of the interpretation test fully confirms the supposition that it was never meant to be actually used, except when and where necessary to keep Negro registration within "tolerable limits," but that, if applied, it would work effectively to that end—and without leaving too obvious traces. Thus it is that the test lay dormant until the mid-1950's,[116] when the Negro, now legally eligible to participate in primaries, awakened from his enforced "apathy" and began to demand a voice in political affairs. Then, resurrected, the interpretation clause proved its versatility. As the Statement details, it was set up as a barrier to new registrations and was invoked as a ground for removing from the rolls some of those already registered who had not taken it. The test was administered orally and in writing and every conceivable procedure was used in selecting texts for the examination. Help was sometimes given and sometimes withheld. And grading standards varied widely.

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[116] In *Trudeau* v. *Barnes*, 65 F. 2d 563 (C.A. 5), certiorari denied, 290 U.S. 659—decided in 1933—a Negro brought an action for damages against the registrar of voters for one of the four largest parishes (Orleans), alleging that he had been refused registration "in obedience to" Article 8, § 1 of the 1921 Constitution, which then required that an applicant be able to read and give a reasonable interpretation of any clause in the Constitution of Louisiana or of the United States. Every indication is, however, that the interpretation test was not generally used in New Orleans or elsewhere at that time. Clearly, the test has not been administered in Orleans Parish during the last decade.

While all the disparities cannot be laid at the door of racial discrimination, and doubtless slighter, or subtler, differences necessarily passed undetected, there is ample evidence—in most instances supported by the specific findings of district courts—that the elastic standards of the constitutional interpretation test were widely used to defeat Negro registration. Specifically, as the Statement details (*supra,* pp. 31–42), there has been discrimination in the selection of sections (*e.g., United States* v. *Fox,* 211 F. Supp. 25, 33 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5)); the rejection of highly educated Negroes, often for frivolous reasons, and the acceptance of illiterate whites (*e.g., United States* v. *Clement,* 231 F. Supp. 913, 915 (W.D. La.)); the assistance on the test given to whites but withheld from Negroes (*United States* v. *Fox, supra*); the employment of the test, in most of the parishes where it was used, to keep off the voter registration rolls Negroes who had been discriminatorily purged pursuant to the exhortations of Rainach and Shaw, and, in parishes such as Bienville, the adoption, immediately after the purge, of permanent registration to seal the unpurged whites on the rolls (*United States* v. *Association of Citizens Councils of Louisiana,* 196 F. Supp. 908, 910 (W.D. La.)); indeed, even the administration of the test to Negroes but not to whites, *United States* v. *Clement, supra; United States* v. *Wilder,* 222 F. Supp. 749, 752 (W.D. La.).[117] Nor can there be any doubt of the inhibiting

[117] See, also, *Report of the United States Commission on Civil Rights* (1961), Vol. 1, Chapter 3 ("The Louisiana Story"), pp. 58–66, 135–137; *The 50 States Report* (submitted to the Commission on Civil Rights by the State Advisory Commit-

effect of these discriminatory practices on those who would otherwise have tried to register. See the opinion below, R. 135, 139.

The results are eloquent testimony. One way and another, State-wide Negro registration has been "stabilized" (to borrow the term of an official report)[118] at less than one-third of the presumptively eligible Negro adults—as compared to a 77% rate of registration for whites. See Appendix C. (*infra*, p. 91). Of course, the discriminatory operation of the interpretation test is not alone responsible. But, from 1956 (when the Negro electorate for the first and only time reached over 15% of the total registration and was viewed as alarming)[119] until mid-1962 (when the test was tentatively abandoned, after this suit was filed), it is clear that the selective enforcement of the understanding clause was a major factor in reducing and containing Negro registration. One need only notice the dramatic drop—to less than half the original figure and less than one-tenth of those potentially eligible—in the number of Negroes on the voting rolls in the 21 parishes where the interpretation test was used during that period. See Appendix D. (*infra*, p. 93).

In sum, the interpretation test in practice worked precisely as it was always understood it would. To be sure, some registrars took slight liberties with the

tees) (1961), pp. 216, 220; Hearings Before the United States Commission on Civil Rights, New Orleans, La., 1960–1961.

[118] See the December 14, 1960, Report of the Sub-Committee on Registration of the State Sovereignty Commission, R. 805–815, at 809, 811.

[119] See R. 196, 198–199, 790.

provisions of the State Constitution. But most of what was done was in conformity with the letter and the spirit of the law, under sanction from the highest State officials. It was, therefore, both necessary and proper that the State, and through it all State agents, be permanently enjoined from further implementing provisions which breed the gross discrimination reflected in this record.

## III

### THE COURT BELOW PROPERLY ENJOINED APPLICATION OF THE NEW "CITIZENSHIP TEST" IN THE PARISHES WHERE THE INTERPRETATION TEST WAS SHOWN TO HAVE BEEN USED UNTIL THERE IS A GENERAL RE-REGISTRATION OF ALL VOTERS IN THE PARISH

We have already noticed that in August, 1962—while the present suit was pending—the State Board of Registration promulgated, and required registrars throughout the State to administer, a new "multiple-choice" "citizenship" test as a prerequisite to registration (Statement, *supra,* pp. 43–45). Whatever the independent merits of the requirement (which the court below did not reach), it plainly erects a substantial obstacle to qualification for future applicants. Thus, where Negroes have been discriminatorily barred from registration, the new test—which applies only prospectively—would "freeze in" the effects of past discrimination. On this ground, the court below conditionally enjoined the use of the new test in those 21 parishes where the present record shows that the constitutional interpretation test was recently administered, until such time as there has been a general re-registration of all voters in the parish (or other

action effectively erasing the discriminatory effect of the interpretation test) (R. 82–83).

The order was plainly adapted to "the necessities of the particular case." *Hecht Co.* v. *Bowles*, 321 U.S. 321, 329; *Porter* v. *Warner Co.*, 328 U.S. 395, 398. As we elaborated in our brief in the companion *Mississippi* case (pp. 92–94), the practical solution of requiring a waiver of the law for all when some have been improperly exempted is supported by ample precedent, including, in closely analogous circumstances, this Court's decisions in *Guinn* v. *United States*, 238 U.S. 347 and *Lane* v. *Wilson*, 307 U.S. 268, 275–276.[120] It was appropriately invoked here because no workable alternative would effectively uproot the discrimination of the past.

Appellants seem to suggest (App. Br. 29, 31) that the effects of past "inequities" can be cured by a purge of whites registered in violation of State law. But, assuming the appropriateness of an order directing such action in some circumstances (see *United States* v. *Atkins*, 323 F. 2d 733 (C.A. 5)), that remedy is wholly inadequate here. In the first place, the removal of improperly registered whites would erase only one part of the discrimination; it would no noth-

[120] The "freezing" principle is expressly sanctioned by 42 U.S.C. 1971(e) (Appendix A, *infra*, pp. 82–86). That provision requires voting referees, under stated circumstances, to issue voter certificates to applicants "qualified under state law," and then defines that standard to mean "qualified according to the laws, customs, or usages of the State," barring, however, "qualifications more stringent than those used * * * in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist." See *United States* v. *Duke*, 332 F. 2d 759, 769 (C.A. 5).

ing for the Negro who was improperly rejected under the former standards and who must now re-apply under more onerous conditions. At the least, the order must provide for the mandatory registration of those who should have been accepted. But, in any event, an injunction adding and deleting names from the registration rolls does not meet the case. It wholly ignores the rights of a substantial body of potentially eligible Negroes who were inhibited from applying [121] in the face of the prevailing discriminatory practices and the experience of others. Moreover, as a practical matter—the heavy burden involved and the inevitable delays to one side—no accurate list of illegally registered and illegally rejected applicants can be drawn. The necessary records are lacking.[122] But,

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[121] This deterrent effect has been consistently noticed by the lower federal courts. See *United States* v. *Manning*, 215 F. Supp. 272, 288 (W.D. La.); *United States* v. *Clement*, 231 F. Supp. 913, 915 (W.D. La.); *United States* v. *Fox*, 211 F. Supp. 25, 32 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5); *United States* v. *Duke*, 332 F. 2d 759, 763 (C.A. 5) (Mississippi interpretation test).

Likewise, those once rejected are discouraged from making a second attempt. The following statements are illustrative. A Negro schoolteacher in Ouachita Parish (R. 751):

> I haven't been back for the simple reason that I thought I interpreted it correctly the first time: * * * she said it wasn't to her satisfaction * * * I could interpret something all day, and they would still say that it's not to their satisfaction.

A Negro dentist in Webster Parish (R. 689):

> I haven't been in because I had trouble before, and it's embarrassing to go in, feeling that you're qualified and all, and are turned down, it's really embarrassing.

[122] Unless the constitutional interpretation test has been both given and answered in writing (a rare instance—see Statement, *supra*, p. 31), there is no way of ascertaining from the registrar's

in any event, there is an insuperable obstacle inherent in the interpretation test itself. As we have seen, the very vagueness of the constitutional provisions obscures the applicable standards and, so far as State law is concerned, it is impossible to say that anyone was "illegally" accepted or rejected. On the contrary, in the light of the administrative gloss, the discrimination practiced was fully sanctioned by Louisiana law. In the circumstances, the only realistic decree is one enjoining the interpretation test, as well as the imposition of any new requirement, unless everyone is required to meet it.

It may be argued that the injunction against implementing the new "citizenship" test is too narrow (because it is restricted to 21 parishes, whereas discrimination has not been confined to those areas), or too broad (because it affects parishes where the present record reveals the constitutional interpretation test was used, but does not affirmatively show that it was discriminatorily applied). The answer to the first objection is, of course, that the only subject of this suit is the constitutional interpretation test and the

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records alone whether an applicant was improperly qualified or improperly rejected. In no event, is it possible to discern whether "illegal" help was given. Moreover, in some of the 21 parishes affected, the registrar's practice was to administer the interpretation test first and make no record if the applicant failed and was rejected on that ground. Accordingly, no list of rejected applicants for those parishes is readily available and claims of rejection might well be contested. See, *e.g.*, R. 356, 362–363, 366–367 (Rapides); 442, 448 (Brinville). Finally, whatever the records indicate, the "purge" of a registered voter presumably requires that he be joined in the action and offered an opportunity to defend.

voting discrimination which *it* engendered; in other proceedings, it may well be appropriate to extend the injunction to avoid "freezing in" the effects of *other* discriminatory practices. The second objection must yield to the finding—fully supported by the statistics [125]—that the interpretation test, wherever used, inevitably inhibited Negro registration.

CONCLUSION

For the foregoing reasons, the judgment below should be affirmed.

Respectfully submitted.

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DECEMBER 1964.

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[125] See Appendix D, p. 93

# APPENDIX A

## Constitutional and Statutory Provisions Involved

Constitution of the United States:

ARTICLE VI

> [Clause 2.] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
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> * * * * *

AMENDMENT XV

> Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 1971 of Title 42 of the United States Code:

> (a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.
>
> * * * * *

(c) [Supp. V] Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) [Supp. V] In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area

shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 16 of Title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such appli-

cant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the

event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in this subsection, the word "vote" includes all action necessary to make a vote

effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

* * * * *

## APPENDIX B

**Relevant text of Section 1 of Article VIII of the Constitution of Louisiana, as originally adopted in 1921 and as amended in November, 1960.**

[Portions in Roman script represent the original text; additions made in 1960 are shown in *italics*; deletions are indicated by ~~barred words~~. The provision directly challenged in this proceeding (part of the original text but now of broader applicability) is that part of subsection (d) (*infra*, p. 90) printed in **boldface**].

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### ARTICLE VIII

#### SUFFRAGE AND ELECTIONS

§ 1. RIGHT TO VOTE; QUALIFICATIONS OF ELECTORS; REGISTRATION.

SECTION 1. Right to vote. After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution.

CITIZENSHIP AND AGE. Every citizen of this State and of the United States, native born or naturalized, not less than twenty-one years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in the State by the people:

* * * * *

(c) CHARACTER AND LITERACY. He shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government. *One who has committed any of the following acts shall not be considered of good character:*

*(1) Has been convicted of a felony and has not received a pardon and full restoration of franchise.*

*(2) Has been convicted and sentenced to a term of ninety (90) days or more in jail for each conviction of more than one misdemeanor, other than traffic and/or game law violations, within the five years immediately prior to the date of making application for registration as an elector.*

*(3) Has been convicted and sentenced to a term of six (6) months or more in jail for any misdemeanor, other than traffic and/or game law violations, within one year immediately prior to the date of making application for registration as an elector.*

*(4) Who has lived with another in "common law" marriage within five years from the date of making application to become an elector, the common law union to be considered in accordance with the definition thereof prescribed by the criminal laws of this state.*

*(5) Has given birth to an illegitimate child within the five years immediately prior to the date of making application for registration as an elector, provided that the provisions in this paragraph shall not apply to mothers of illegitimate children conceived as a consequence of rape or forced carnal knowledge.*

*(6) Has been proven to be or who has acknowledged himself to be the father of an illegitimate child within the five years immediately prior to the date of making application for registration as an elector.*

*(7) The above enumerated acts denoting bad character shall not be deemed exclusive hereunder but said bad character may be established by any competent evidence:*

He shall be able to read and write *in the English language, or his mother tongue,* and shall demonstrate his ability to do so when he applies for registration *by the reading and the writing from dictation given by the registrar, or an interpreter duly sworn, any portion of the preamble to the Constitution of the United States of America,* and by making, under oath administered by the registration officer or his deputy, written application for registration,

in the English language, or his mother tongue, which application shall contain the essential facts necessary to show that he is entitled to register and vote, and shall be entirely written, dated and signed by him, except that he may date, fill out, and sign the blank application for registration hereinafter provided for, and, in either case, in the presence of the registration officer or his deputy, without assistance or [~~suggestion~~] *supervision* from any person or any memorandum whatever, other than the form of application hereinafter set forth; provided, however, that, if the applicant be unable to write his application in the English language, he shall have the right, if he so demands, to write the same in his mother tongue from the dictation of an interpreter; and, if the applicant is unable to write his application by reason of physical disability, the same shall be written at his dictation by the registration officer or his deputy, upon his oath of such disability.

Until and unless otherwise provided by law, the application for registration above provided for, shall be a copy of the following form, with the proper names, dates and numbers substituted for the blanks appearing therein, to-wit:

I am a citizen of the State of Louisiana. My name is Mr. ....., Mrs. ....., Miss ....., I was born in the State (or country) of ....., Parish (or county) of ....., on the ..... day of ....., in the year ..... I am now ..... years, ..... months and ..... days of age. I have resided in this State since ....., in this parish since ....., and in precinct No. ....., in Ward No. ....., *of this parish continuously* since ....., and I am not disfranchised by any provision of the Constitution of this State.

*The application for registration form above provided for shall be filled out by the applicant and sworn and sub-*

*scribed to before the registrar of voters or deputy registrar of voters.*

~~Said applicant shall also be able to read any clause in this Constitution, or the Constitution of the United States, and give a reasonable interpretation thereof.~~

(d) CHARACTER AND UNDERSTANDING. ~~If he is not able to read or write, then he shall be entitled to register if~~ [*H*]e shall be a person of good character and reputation, attached to the principles of the Constitution of the United States and of the State of Louisiana, and shall **be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar,** and he must be well disposed to the good order and happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government. *He shall demonstrate that he is well disposed to the good order and happiness of the State of Louisiana by executing an affidavit affirming that he will faithfully and fully abide by all of the laws of the State of Louisiana.*

* * * * *

*(f) Notwithstanding any provision in this section to the contrary, the inability of any person to read or write for any reason, who is registered to vote as of November 8, 1960, shall not be grounds for removal of such person from the registration rolls, by the registrar, by challenge of other persons, or by any action of court. Added Acts 1960, No. 613, adopted Nov. 8, 1960.*

U.S. GOVERNMENT PRINTING OFFICE: 1966

# NOTES

[a] All figures in these columns are taken from U.S. Bureau of the Census, *Census of Population:* 1950, Vol. I, Part 20, Table 14, p. 27.

[b] The basic figures are derived from the respective decennial census reports. See U.S. Census Office, *Compendium of the Eleventh Census:* 1890, Part I, Table 35, p. 701 (H. Misc. Doc. No. 340, Part 6, 52d Cong., 1st Sess.); *id.*, *Twelfth Census:* 1900, Vol. II, Table XI., p. lxxvi, Table 34, p. 171; U.S. Bureau of the Census, *Thirteenth Census:* 1910, Vol. II, Louisiana Table 4, p. 772, Louisiana Table I, p. 770; *id.*, *Fifteenth Census:* 1930, Vol. III, Part I, Louisiana Table 4, p. 960 (for both 1920 and 1930); *id.*, *Sixteenth Census of the United States:* 1940, Population Vol. II, Part I, Table 32, p. 72; *id.*, *Census of Population:* 1950, Vol I, Part 20, Table 14, pp. 20, 21 (for both 1940 and 1950). For 1900, 1910, and 1920, because the cited tables group together all "colored" or "non-white" adults (or male adults in 1900), a slight adjustment was made to eliminate the very small number of Orientals and Indians from the "Negro" column. Exact figures being unavailable, this was done by subtracting from the total number of adult "non-whites" one-half the total number of non-Negro "non-whites" in the State population in the given year (one-half of the male total for 1920 when women could not vote) on the assumption that approximately half the population consisted of minors. Slight inaccuracies resulting from this procedure are insignificant, since the percentage of "non-whites" other than Negroes never exceeded 0.5% of the population in Louisiana. For all years, the figures used for the adjustment are found in U.S. Bureau of the Census, *Census of Population:* 1950, Vol I, Part 20, Table 14, p. 27.

[c] All figures are taken from official Louisiana reports. Most of these are reproduced in Pl. Exh. 1 or Pl. Exh. 101. Exceptions are: the figures for 1920 and 1930 which are shown in Pl. Exh. 101, R. 322-324 (also Exhs. 121, 122), the 1932 figures which are shown on Pl. Exh. 14, and the 1934 and 1936 figures which are taken directly from the tables appended to the *Reports of the Secretary of State of Louisiana*, dated January 1, 1935, and January 1, 1937, respectively. With the exceptions hereafter noted, the figures listed for 1920 and subsequent years represent the October list of registered voters. The entries for 1920 are as of March 17 of that year, the all-time high for Negro registration (October, 1920 figures total, 1,070,695; white, 849,555; Negro, 220,840; Negro %, 14.6%; Pl. Exhs. 101, 122). The 1932 figures are as of December 31. The figures listed in the "1937" column are actually those for 1936, no others being available. Assuming the correctness of the Census figures, the list of registered voters for 1920 (listed here as "1937") is obviously inaccurate, at least with respect to Negro voters. Doubtless, the list had not been recently purged of the names of a substantial number of former registrants who had died or moved from the State. Presumably, however, the same error is reflected on the list of white voters and the percentage figure may therefore be assumed approximately accurate. Minor discrepancies will be noted in some of the totals for other years, which are copied from the official reports. Such insignificant errors do not affect the percentage figures.

[d] These percentages are arrived at by comparing the total voting age population for each race (Appendix Exhibit 2) and the registration figures for each race in the census years (from columns 21 and 22). The "registration rate" noted for 1920 must be viewed as approximate only because the registration figures for that year are obviously inflated. See note (c) supra.

# APPENDIX C

*State-wide statistics*

| Year | Total population [a] | | | | Voting age population [b] (Over 21, males only through 1920) | | | |
|---|---|---|---|---|---|---|---|---|
| | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total |
| 1900 | 1,118,[illegible] | [illegible] | [illegible] | [illegible] | [illegible] | 130,748 | 119,[illegible] | 47.6% |
| 1910 | 1,[illegible] | [illegible] | [illegible] | 47.1% | [illegible] | 177,878 | 147,[illegible] | 45.2% |
| 1920 | 1,[illegible] | [illegible] | 713,[illegible] | 43.1% | [illegible] | [illegible] | 174,211 | 42.6% |
| 1930 | 1,[illegible] | 1,[illegible] | [illegible] | [illegible] | [illegible] | [illegible] | 178,[illegible] | [illegible] |
| 1932 | | | | | | | | |
| 1934 | | | | | | | | |
| 1936 | | | | | | | | |
| 1938 | | | | | | | | |
| 1940 | 2,101,[illegible] | 1,[illegible],712 | [illegible] | 37.1% | 1,134,[illegible] | 716,[illegible] | 415,[illegible] | [illegible] |
| 1942 | | | | | | | | |
| 1944 | | | | | | | | |
| 1946 | | | | | | | | |
| 1948 | | | | | | | | |
| 1950 | 2,[illegible] | 1,511,[illegible] | [illegible] | [illegible] | 1,374,[illegible] | [illegible] | 473,[illegible] | 34.4% |
| 1952 | | | | | | | | |
| 1954 | | | | | | | | |
| 1956 | | | | | | | | |
| 1958 | | | | | | | | |
| 1960 | 2,[illegible] | 1,[illegible] | [illegible] | [illegible] | 1,[illegible],145 | 1,[illegible] | 479,[illegible] | 30.2% |
| 1962 | | | | | | | | |
| 1964 | | | | | | | | |
| 1966 | | | | | | | | |
| 1968 | | | | | | | | |
| 1970 | 3,[illegible] | 2,[illegible],715 | 1,[illegible] | [illegible] | 1,[illegible] | 1,[illegible],216 | [illegible] | [illegible] |
| 1972 | | | | | | | | |

# APPENDIX C

*State-wide statistics*

| Year | Total population [a] | | | | Voting age population [b] (Over 21, males only through 1920) | | | | Registered voters [c] | | | | Registration rate [d] | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total | White | Negro |
| 1800 | 1,118,588 | 558,395 | 559,193 | 50% | 250,563 | 130,748 | 119,469 | 47.6% | 254,807 | 126,884 | 127,923 | 50.2% | 91% | 100% |
| 1900 | 1,381,625 | 729,612 | 698,804 | 47.1% | 325,943 | 177,878 | 147,348 | 45.2% | 130,757 | 125,437 | 5,320 | 4.1% | 71% | 4% |
| 1910 | 1,656,388 | 941,086 | 713,374 | 43.1% | 414,919 | 240,001 | 174,211 | 42.0% | 117,993 | 116,349 | 730 | 0.5% | 48% | 0.4% |
| 1920 | 1,798,509 | 1,096,611 | 700,257 | 38.9% | 469,669 | 290,374 | 178,623 | 38.0% | 260,765 | 257,232 | 3,533 | 1.4% | 85% | 2% |
| 1922 | | | | | | | | | 191,789 | 191,191 | 598 | 0.3% | | |
| 1924 | | | | | | | | | 323,555 | 317,136 | 955 | 0.3% | | |
| 1926 | | | | | | | | | 274,917 | 274,532 | 988 | 0.4% | | |
| 1928 | | | | | | | | | 379,270 | 376,963 | 2,054 | 0.5% | | |
| 1930 | 2,101,598 | 1,322,712 | 778,326 | 37.1% | 1,134,852 | 716,356 | 415,047 | 36.6% | 363,570 | 361,271 | 2,279 | 0.6% | 48% | 0.5% |
| 1932 | | | | | | | | | 481,997 | 480,406 | 1,591 | 0.3% | | |
| 1934 | | | | | | | | | 395,682 | 395,385 | 1,306 | 0.3% | | |
| 1936 | | | | | | | | | 643,590 | 641,609 | 1,981 | 0.3% | | |
| 1938 | | | | | | | | | 527,059 | 525,936 | 1,123 | 0.2% | | |
| 1940 | 2,383,880 | 1,511,739 | 849,308 | 35.9% | 1,374,947 | 899,960 | 473,562 | 34.4% | 702,545 | 701,659 | 886 | 0.1% | 77% | 0.2% |
| 1942 | | | | | | | | | 606,298 | 605,341 | 957 | 0.2% | | |
| 1944 | | | | | | | | | 722,715 | 721,043 | 1,672 | 0.2% | | |
| 1946 | | | | | | | | | 770,121 | 762,560 | 7,561 | 1.0% | | |
| 1948 | | | | | | | | | 924,705 | 896,417 | 28,177 | 3.0% | | |
| 1950 | 2,683,516 | 1,796,683 | 882,428 | 32.9% | 1,587,143 | 1,105,861 | 479,082 | 30.2% | 818,031 | 756,356 | 61,675 | 7.5% | 68% | 12% |
| 1952 | | | | | | | | | 1,056,720 | 945,088 | 107,644 | 10.2% | | |
| 1954 | | | | | | | | | 871,635 | 753,333 | 118,183 | 13.6% | | |
| 1956 | | | | | | | | | 1,057,908 | 896,498 | 161,410 | 15.3% | | |
| 1958 | | | | | | | | | 946,267 | 816,643 | 129,624 | 13.7% | | |
| 1960 | 3,267,622 | 2,211,715 | 1,689,207 | 31.9% | 1,808,805 | 1,289,216 | 511,539 | 28.4% | 1,152,151 | 993,118 | 159,033 | 13.8% | 77% | 31% |
| 1962 | | | | | | | | | 1,098,855 | 942,977 | 159,878 | 13.8% | | |

# NOTES

[a] U.S. Bureau of the Census, *Census of Population: 1960*, Vol. II, Part 18, Table 44, pp. 67-77.

[b] State of Louisiana, *Report of Secretary of State to his excellency Earl K. Long, Governor, from January 1, 1949 to December 31, 1950* (October 1960 figures).

[c] Pl. Exh. 1 (October 1964 figures).

[d] Pl. Exh. 1 (March 1965 figures).

[e] Pl. Exh. 1 (October 1965 figures).

[f] U.S. Bureau of the Census, *Census of Population: 1960*, Vol. I, Part 20, Table 27, pp. 74-80.

[g] Pl. Exh. 14 (December 1960 figures).

[h] It will be noted that the table indicates more registered white voters than white adults in La Salle, Red River and St. Helena Parishes. That is presumably explained by the fact that census figures are as of April, 1960, while the registration figures are for December 31, 1960. In those instances, the registration rate is here indicated as "100%."

[i] Pl. Exh. 14 (December 1962 figures).

| | 1960 | | | | | | | | 1964 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Voting Age Population [a] | | | Registered Voters [b] | | | Registration Rate | | Registered Voters [c] | | |
| | White | Negro | Negro % of Total | White | Negro | Negro % of total | White | Negro | White | Negro | Ne % tot |
| Bienville | 6,123 | 4,478 | 42.2% | 5,015 | 85 | 1.7% | 81.9% | 1.9% | 4,331 | 482 | 10 |
| Claiborne | 7,748 | 6,277 | 44.8% | 4,885 | 17 | .34% | 63.0% | .27% | 5,610 | 15 | |
| De Soto | 6,644 | 6,859 | 50.8% | 4,684 | 0 | 0% | 70.5% | 0% | 3,827 | 373 | 8 |
| East Carroll | 3,223 | 5,330 | 62.3% | 2,186 | 0 | 0% | 67.2% | 0% | 2,074 | 0 | 0 |
| East Feliciana | 6,214 | 6,235 | 50.1% | 2,214 | 1 | .01% | 35.6% | .01% | 2,544 | 648 | 20 |
| Franklin | 9,870 | 5,070 | 33.9% | 6,986 | 0 | 0% | 70.8% | 0% | 6,331 | 445 | 6 |
| Jackson | 6,415 | 2,299 | 26.4% | 5,900 | 840 | 12.5% | 92.0% | 36.5% | 4,305 | 760 | 15 |
| La Salle | 6,615 | 813 | 10.9% | 5,780 | 0 | 0% | 87.4% | 0% | 5,543 | 544 | 8 |
| Lincoln | 9,297 | 5,242 | 36.1% | 5,962 | 349 | 5.5% | 64.0% | 6.7% | 5,301 | 947 | 15 |
| Morehouse | 9,466 | 7,907 | 45.5% | 6,173 | 538 | 8.0% | 65.2% | 6.8% | 6,433 | 743 | 10 |
| Ouachita | 31,381 | 14,532 | 31.7% | 19,791 | 2,365 | 10.7% | 63.1% | 16.3% | 23,299 | 3,183 | 12 |
| Plaquemines | 5,229 | 2,642 | 33.6% | 4,441 | 0 | 0% | 84.9% | 0% | 4,389 | 54 | 1 |
| Rapides | 37,185 | 17,618 | 32.1% | 26,956 | 3,517 | 11.5% | 72.5% | 2.0% | 23,191 | 2,626 | 10 |
| Red River | 3,569 | 2,917 | 45.0% | 3,164 | 0 | 0% | 88.7% | 0% | 2,916 | 1,044 | 26 |
| Richland | 8,452 | 5,427 | 39.1% | 5,636 | 253 | 4.3% | 66.7% | 4.7% | 5,641 | 477 | 7 |
| St. Helena | 2,440 | 2,085 | 46.1% | 2,383 | 0 | 0% | 97.7% | 0% | 1,894 | 1,049 | 3 |
| Union | 7,542 | 3,162 | 29.5% | 6,236 | 464 | 6.9% | 82.7% | 14.7% | 5,155 | 1,631 | 1 |
| Webster | 13,606 | 6,618 | 32.7% | 9,470 | 654 | 6.5% | 69.6% | 9.9% | 9,995 | 1,247 | 1 |
| West Carroll | 7,228 | 1,531 | 17.5% | 5,162 | 0 | 0% | 71.5% | 0% | 3,925 | 248 | 5 |
| West Feliciana | 2,134 | 4,076 | 67.0% | 954 | 0 | 0% | 44.7% | 0% | 1,039 | 0 | |
| Winn | 7,012 | 2,499 | 26.2% | 6,108 | 251 | 3.9% | 87.1% | 10.1% | 5,381 | 731 | 1 |
| All 21 parishes | 197,388 | 113,607 | 36.5% | 140,076 | 9,334 | 6.2% | 71.0% | 8.2% | 132,295 | 16,047 | 1 |

# APPENDIX D

*Statistics for the 21 parishes using the interpretation test*

| | 1950 | | | | | | | | 1954 | | | 1956 | | | 1958 | | | 1960 | | | | | | | 1962 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Voting Age Population [a] | | | Registered Voters [b] | | | Registration Rate | | Registered Voters [c] | | | Registered Voters [d] | | | Registered Voters [e] | | | Voting Age Population [f] | | | Registered Voters [g] | | | Registration Rate [h] | | Registered Voters [i] | | |
| | White | Negro | Negro % of Total | White | Negro | Negro % of total | White | Negro | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | White | Negro | Negro % of total |
| Bienville | 6,123 | 4,478 | 42.2% | 5,015 | 85 | 1.7% | 81.9% | 1.9% | 4,331 | 482 | 10.0% | 5,328 | 857 | 9.9% | 4,759 | 28 | 0.58% | 5,617 | 4,077 | 42.1% | 5,175 | 25 | 0.48% | 92.1% | 0.61% | 4,664 | 478 | 9.3% |
| Claiborne | 7,748 | 6,277 | 44.8% | 4,865 | 17 | .34% | 63.0% | .27% | 5,610 | 15 | .26% | 5,808 | 17 | .29% | 5,698 | 15 | .26% | 8,415 | 5,082 | 43.9% | 5,801 | 29 | .52% | 85.8% | .57% | 5,216 | 34 | .64% |
| De Soto | 6,644 | 6,809 | 51.9% | 4,684 | 0 | 0% | 70.5% | 0% | 3,827 | 373 | 8.8% | 5,640 | 762 | 11.9% | 5,526 | 486 | 8.1% | 6,543 | 6,753 | 51.5% | 5,822 | 594 | 9.3% | 89.0% | 8.8% | 5,655 | 599 | 9.6% |
| East Carroll | 3,220 | 5,280 | 62.3% | 2,186 | 0 | 0% | 67.2% | 0% | 2,074 | 0 | 0% | 3,000 | 0 | 0% | 2,028 | 0 | 0% | 2,990 | 4,183 | 58.3% | 2,845 | 0 | 0% | 95.2% | 0% | 1,261 | 5 | .39% |
| East Feliciana | 6,214 | 6,285 | 50.1% | 2,214 | 1 | .01% | 35.6% | .01% | 2,544 | 643 | 20.3% | 2,812 | 1,361 | 32.6% | 2,485 | 454 | 15.4% | 7,043 | 6,081 | 46.3% | 2,448 | 82 | 3.2% | 34.8% | 1.3% | 2,517 | 80 | 3.1% |
| Franklin | 9,870 | 5,070 | 33.9% | 6,988 | 0 | 0% | 70.8% | 0% | 6,331 | 445 | 6.5% | 8,297 | 650 | 7.26% | 5,692 | 364 | 6.01% | 8,964 | 4,433 | 33.1% | 8,360 | 390 | 4.5% | 92.2% | 8.8% | 5,050 | 155 | 3.0% |
| Jackson | 6,415 | 2,209 | 26.4% | 5,900 | 840 | 12.5% | 92.0% | 36.5% | 4,305 | 760 | 15.0% | 5,457 | 1,113 | 16.9% | 4,956 | 360 | 6.8% | 6,607 | 2,335 | 27.7% | 5,804 | 483 | 7.7% | 87.8% | 19.1% | 5,579 | 479 | 7.9% |
| La Salle | 6,615 | 813 | 10.9% | 5,780 | 0 | 0% | 87.4% | 0% | 5,543 | 544 | 8.9% | 6,861 | 742 | 9.8% | 4,901 | 157 | 2.9% | 6,799 | 849 | 11.1% | 6,823 | 220 | 3.1% | 100% | 25.9% | 5,308 | 190 | 3.5% |
| Lincoln | 9,207 | 5,242 | 36.1% | 5,902 | 349 | 5.5% | 64.0% | 6.7% | 5,301 | 947 | 15.2% | 7,029 | 1,166 | 14.2% | 4,655 | 470 | 9.2% | 9,611 | 5,723 | 37.3% | 6,928 | 860 | 11.0% | 72.1% | 15.0% | 4,825 | 720 | 13.0% |
| Morehouse | 9,466 | 7,907 | 45.5% | 6,173 | 538 | 8.0% | 65.2% | 6.8% | 6,423 | 743 | 10.3% | 9,400 | 985 | 9.09% | 4,647 | 202 | 4.2% | 10,211 | 7,208 | 41.1% | 7,480 | 301 | 3.9% | 72.8% | 4.2% | 5,890 | 251 | 4.3% |
| Ouachita | 31,381 | 14,532 | 31.7% | 19,791 | 2,365 | 10.7% | 63.1% | 16.3% | 23,289 | 3,183 | 12.0% | 24,184 | 5,782 | 19.3% | 21,979 | 776 | 3.4% | 40,185 | 16,377 | 28.9% | 34,789 | 739 | 2.7% | 61.7% | 4.8% | 25,138 | 1,001 | 3.8% |
| Plaquemines | 5,229 | 2,642 | 33.6% | 4,441 | 0 | 0% | 84.9% | 0% | 4,309 | 54 | 1.21% | 4,741 | 49 | 1.02% | 5,371 | 45 | .8% | 8,653 | 2,807 | 25.1% | 7,160 | 47 | .65% | 82.9% | 1.6% | 6,735 | 85 | 1.2% |
| Rapides | 37,185 | 17,618 | 32.1% | 26,956 | 3,517 | 11.5% | 72.5% | 2.0% | 23,191 | 2,626 | 10.2% | 26,293 | 3,160 | 10.7% | 25,294 | 2,630 | 9.4% | 44,823 | 18,141 | 28.8% | 30,262 | 3,073 | 9.2% | 67.7% | 16.9% | 30,002 | 3,010 | 9.1% |
| Red River | 3,289 | 2,217 | 45.9% | 3,166 | 0 | 0% | 96.7% | 0% | 2,916 | 1,044 | 26.4% | 3,575 | 1,512 | 29.7% | 1,958 | 15 | .76% | 3,294 | 2,181 | 39.9% | 3,429 | 27 | .78% | 100% | 1.2% | 3,061 | 31 | 1.0% |
| Richland | 6,423 | 5,427 | 39.1% | 5,636 | 263 | 4.3% | 86.7% | 4.7% | 5,641 | 477 | 7.8% | 7,196 | 740 | 9.3% | 4,273 | 179 | 3.9% | 7,601 | 4,608 | 37.7% | 6,075 | 263 | 4.1% | 79.9% | 5.7% | 4,062 | 218 | 5.1% |
| St. Helena | 2,649 | 3,686 | 46.1% | 2,253 | 0 | 0% | 97.7% | 0% | 1,884 | 1,049 | 35.8% | 2,555 | 1,694 | 39.8% | 1,702 | 1,059 | 38.4% | 2,363 | 2,982 | 46.9% | 2,478 | 1,343 | 33.4% | 100% | 88.7% | 1,715 | 209 | 10.9% |
| Union | 7,842 | 3,183 | 28.8% | 6,296 | 464 | 6.9% | 82.7% | 14.7% | 5,155 | 1,031 | 16.7% | 6,896 | 1,600 | 18.8% | 3,985 | 366 | 8.6% | 7,021 | 3,606 | 33.9% | 5,911 | 597 | 9.2% | 84.2% | 19.7% | 6,600 | 600 | 9.1% |
| Webster | 13,206 | 6,618 | 33.7% | 9,670 | 654 | 6.8% | 68.6% | 9.9% | 9,055 | 1,247 | 12.1% | 12,613 | 1,709 | 12.3% | 8,197 | 80 | .97% | 15,713 | 7,045 | 30.9% | 12,260 | 130 | 1.1% | 77.9% | 1.9% | 8,881 | 120 | 1.4% |
| West Carroll | 7,229 | 1,851 | 17.8% | 5,162 | 0 | 0% | 71.8% | 0% | 3,925 | 248 | 5.9% | 5,660 | 282 | 4.8% | 3,286 | 70 | 2.1% | 8,171 | 1,289 | 13.6% | 5,182 | 70 | 1.3% | 84.6% | 5.6% | 2,494 | 28 | 1.1% |
| West Feliciana | 2,184 | 4,676 | 67.8% | 984 | 0 | 0% | 44.7% | 0% | 1,060 | 0 | 0% | 1,272 | 0 | 0% | 981 | 0 | 0% | 2,814 | 4,553 | 61.8% | 1,328 | 0 | 0% | 46.3% | 0% | 1,698 | 0 | 0% |
| Winn | 7,812 | 3,429 | 26.2% | 6,168 | 261 | 3.9% | 87.1% | 10.1% | 5,281 | 731 | 12.0% | 6,449 | 1,430 | 18.1% | 4,872 | 746 | 13.3% | 6,780 | 2,880 | 27.6% | 6,366 | 1,682 | 14.6% | 96.2% | 42.2% | 5,917 | 994 | 13.6% |
| All 21 parishes | 207,288 | 113,627 | 38.8% | 149,978 | 9,284 | 6.2% | 71.0% | 8.2% | 132,205 | 16,647 | 12.6% | 161,689 | 26,261 | 13.6% | 127,194 | 8,804 | 6.3% | 216,288 | 111,762 | 34.1% | 162,427 | 16,288 | 5.9% | 75.1% | 9.2% | 140,488 | 9,227 | 6.2% |